



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

IN REPLY PLEASE
REFER TO OUR FILE

December 7, 2018

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

Re: Pennsylvania Public Utility Commission v.
Pittsburgh Water and Sewer Authority
Docket Nos. R-2018-3002645 (water), R-2018-3002647 (wastewater)

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Statement in Support of Joint Petition for Settlement** in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of service. If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

John M. Coogan
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Bureau of Investigation and Enforcement
PA Attorney I.D. #313920

GLM/JMC/jfm
Enclosure

cc: Per Certificate of Service
ALJ Mark A. Hoyer
ALJ Conrad A. Johnson

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et al.	:	
	:	
	:	
	:	Docket Nos. R-2018-3002645
v.	:	R-2018-3002647
	:	
	:	
Pittsburgh Water and Sewer Authority –	:	
Base Rates (Water and Wastewater)	:	

**THE BUREAU OF INVESTIGATION AND ENFORCEMENT'S
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT**

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Dated: December 7, 2018

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**THE BUREAU OF INVESTIGATION AND ENFORCEMENT’S
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT**

**TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE MARK A. HOYER AND
ADMINISTRATIVE LAW JUDGE CONRAD A. JOHNSON:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutors Gina L. Miller and John M. Coogan, hereby respectfully submit that the terms and conditions of the Joint Settlement Petition (“Joint Petition” or “Settlement”) filed in this proceeding on November 29, 2019 are in the public interest and represent a fair, just, and reasonable balance of the interests of Pittsburgh Water and Sewer Authority (“PWSA” or “the Authority”), and its customers.

I. BACKGROUND

A. Legal Landscape of PWSA's Transition to the Commission's Jurisdiction

In a Pennsylvania House of Representatives Co-Sponsorship Memoranda dated May 24, 2017, the sponsors of House Bill 1490, legislation intended to place the PWSA under the regulatory oversight of the Commission, Representatives Mike Turzai and Harry Readshaw addressed the purpose of such legislation. In their Memoranda, Representatives Turzai and Readshaw addressed the rationale for the legislation as follows:

Over the last year, local and national newspapers have recounted the many service issues facing PWSA from multi-million dollar debt and uncollectibles, unmetered accounts, incorrect billing, system leaks and non-compliance with federal water quality mandates. These issues call into serious question the sustainability of PWSA and the health and safety of those served by the system.

The customers of PWSA need to know that their water is safe and that they are properly billed for their usage.

While the PUC does not currently have jurisdiction over the operations of municipal authorities, in the case of PWSA, regulatory oversight is needed to fix this deteriorating system and restore the confidence of PWSA's customers. Placing PWSA under the regulatory authority of the PUC will require its board of directors to bring the system into compliance with the requirements of Title 66 of the PA Statutes and PUC regulations applicable to investor-owned water and wastewater utilities.

Under our bill, PWSA will be obligated to provide safe, reliable service to its customers and be subject to monetary penalties if it fails to do so. Additionally, PWSA's customers will be assured the facilities used to deliver their service meet state and federal requirements, that their water is safe and that they are being accurately billed for their usage.

It is important to note that there is precedent for this legislation. In 1999, the legislature passed similar legislation which placed Philadelphia Gas Works under the oversight of the PUC.

The City of Pittsburgh and PWSA clearly need guidance and direction which could be provided by the PUC. This is a positive approach to get at a needed solution to address both an acute and long-term systemic problem with PWSA. In the end, this is about providing necessary help to protect the health and safety of those citizens relying on PWSA for provision of clean water.¹

As indicated above, citing systemic problems ranging from water safety to unmetered accounts, the sponsors of House Bill 1490 took the position that the Commission's jurisdiction over PWSA would be necessary to ensure that PWSA's customers are provided with safe service and that they are charged fairly for that service.

I&E notes that the concerns regarding PWSA's operations described above in the Co-Sponsorship Memoranda were also borne out in two independent analyses of PWSA's operations. First, in November of 2017, the Pennsylvania Department of the Auditor General produced a report summarizing the results of its performance audit of PWSA covering the period of January 1, 2014 through June 30, 2017.² The Auditor General's Report concluded that PWSA's "aging and deteriorating infrastructure issues and financial and operations long-term viability issues result from years of mismanagement and conflicted leadership causing a crisis in [PWSA's] governance."³

¹ House Co-Sponsorship Memoranda for HB 1490, PA House of Representatives Session of 2017-2018 Regular Session, May 24, 2017.

² Performance Audit Report of November 2017 issued by the Pennsylvania Department of the Auditor General ("Auditor General's Report"), p. 3 (I&E Exhibit No. 3, Schedule 4).

³ I&E Ex. No. 3, Sch. 4, p. 2 of Letter dated October 30, 2017.

Additionally, in March of 2017, the Mayor of the City of Pittsburgh appointed a Blue Ribbon Panel to evaluate PWSA’s operations and to make recommendations regarding its future, culminating in the Mayor’s Blue Ribbon Report of December 28, 2017.⁴ The Mayor’s Blue Ribbon Report recognized that “the infrastructure we use to make our plentiful water drinkable and to deliver it to those who need it is badly dilapidated.” The Mayor’s Blue Ribbon Report also acknowledged that PWSA “is struggling to overcome the burden of its poor management of the past. It has lost the trust of the public that it serves, and it has become a leading risk factor for the future of Pittsburgh’s economic development.”⁵

While both the Auditor General’s Report and the Mayor’s Blue Ribbon Report were being developed, House Bill 1490 traversed through the legislative process and culminated in Act 65, which was signed into law by Governor Tom Wolf on December 21, 2017. In accordance with Act 65, the Pennsylvania Public Utility Code (“Code”) was amended to grant the Commission jurisdiction over the provision of utility water, wastewater, and stormwater service by entities created by Pennsylvania cities of the second class under the Municipal Authorities Act.⁶ These amendments established regulatory deadlines, requirements, and obligations for subject entities, including PWSA, and those amendments are now codified in Chapter 32 of the Code. Consistent with

⁴ Report of the Mayor’s Blue Ribbon Panel, December 28, 2017 (“Mayor’s Blue Ribbon Report”) (I&E Ex. No. 2, Sch. 10).

⁵ I&E Ex. No. 2, Sch. 10, p. 3.

⁶ At present, Pittsburgh is Pennsylvania’s sole city of the second class.

Chapter 32, the Commission’s jurisdiction over PWSA became effective on April 1, 2018⁷ and PWSA was statutorily required to make a tariff filing to trigger a rate proceeding within 90 days and a compliance filing within 180 days of April 1, 2018.⁸

In its Final Implementation Order for Chapter 32 of the Code regarding PWSA,⁹ the Commission established affirmative expectations and instructions for PWSA to begin meeting its obligations under Chapter 32.¹⁰ The Commission concluded that since its jurisdiction over PWSA began on April 1, 2018, the requirements existing under Chapter 32 would also be triggered on the same date.¹¹ Therefore, pursuant to the timeline construed by the Commission, PWSA was required to make its initial water and wastewater tariff filings by no later than July 2, 2018 and its compliance filing by no later than September 28, 2018.¹²

(1). PWSA’s Rate Case

With respect to PWSA’s tariff filings, the Commission recognized that “[t]he express intention of 66 Pa. C.S. § 3204(a) is that the Commission conduct a rate proceeding in accordance with the Commission’s procedures for a tariff filing.”¹³

Additionally, the Commission noted that the rate proceeding for PWSA’s first tariff filing would be subject to the same standards and scrutiny as any other ratemaking

⁷ 66 Pa. C.S. § 3202(a)(1).

⁸ 66 Pa. C.S. § 3204(a).

⁹ *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water and Sewer Authority, M-2018-264802 et al*, Final Implementation Order (entered on March 15, 2018) (hereinafter, “*Final Implementation Order*.”)

¹⁰ *Id.* at 2.

¹¹ *Id.* at 13.

¹² *Id.* at 7.

¹³ *Id.* at 25.

proceeding.¹⁴ Finally, the Commission mandated that PWSA employ a cash flow ratemaking method similar to that employed by Philadelphia Gas Works as memorialized by 52 Pa. Code § 69.2703.¹⁵

I&E submits that the record in this case supports the conclusions that the parties and the ALJs have conducted this rate proceeding in accordance with the Commission's procedures, subject to the same standards and scrutiny as any other ratemaking proceeding and that PWSA complied with the Commission's mandate regarding cash flow ratemaking methodology.

(2). PWSA's Compliance Plan Filing

Aside from requiring PWSA to make its initial tariff filing, Chapter 32 also required PWSA to file a compliance plan ("Compliance Plan").¹⁶ Specifically, PWSA is required to file a Compliance Plan with the Commission that includes provisions designed to bring the following areas into compliance with the Code, the Commission's regulations and orders, and other applicable rules: "existing information technology, accounting, billing, collection and other operating systems and procedures."¹⁷ PWSA's Compliance Plan must also include a long-term infrastructure improvement plan.¹⁸

Although the instant proceeding is intended to address PWSA's tariff filing, many of the issues raised in it are inextricably linked with instances of PWSA's non-compliance with the Code. Additionally, by virtue of operational realities and the

¹⁴ Id.

¹⁵ Id. at 27.

¹⁶ 66 Pa. C.S. § 3204(b).

¹⁷ Id.

¹⁸ Id.

statutory timeline set for PWSA's filings, the resolution of certain issues in this case are contingent upon the outcome of PWSA's Compliance Plan proceeding. Therefore, a discussion of the Compliance Plan process is warranted here.

In its Final Implementation Order, the Commission established PWSA's obligation to file a compliance plan by no later than September 28, 2018.¹⁹ I&E notes that it previously expressed concerns that the three-month gap between the filing of PWSA's tariff and Compliance Plan may prove to be problematic because there would likely to be overlap among issues addressed in the two filings.²⁰ Although I&E suggested that PWSA extend the suspension period of its tariff filing in order to align its tariff filing and Compliance Plan filing,²¹ it was not compelled to do so and the timeline of filing requirements outlined in Chapter 32 prevailed. However, in recognition of the need to develop the magnitude of issues likely to arise in both PWSA's rate case and its Compliance Plan case, the Commission intentionally provided flexibility to parties to determine which issues would be raised and resolved in each case.²² With this in mind, and as explained more thoroughly below, both the record in this case and the Settlement necessarily contemplate the need for additional review, investigation, and action in PWSA's Compliance Plan.

¹⁹ *Final Implementation Order*, p. 8

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 31-32.

B. Procedural History

1. On July 2, 2018, PWSA filed Tariff Water – Pa. P.U.C. No. 1 and Tariff Wastewater – Pa. P.U.C. No. 1 to become effective August 31, 2018. Both tariffs are the first proposed PWSA water and wastewater tariffs submitted for approval of the Commission. These filings have been docketed as R-2018-3002645 and R-2018-3002647, respectively. The proposed tariff changes increase total annual operating revenues for water service by approximately \$21.38 million, or 22.01%, and for wastewater service by \$5.63 million, or 9.25%. Until the effective date of a Commission order approving a new tariff, PWSA is providing service to customers in accordance with its prior tariff.²³

2. In conjunction with its tariff filings, PWSA filed a Petition for Consolidation of Proceedings and for Authorization to Use Combined Water and Wastewater Revenue Requirements (“PWSA Petition to Consolidate”).²⁴ In the Petition to Consolidate, PWSA requested not only that its water and wastewater proceedings be formally consolidated into a single proceeding, but that it be permitted to use a consolidated revenue requirement for purposes of this rate increase request.²⁵ Additionally, PWSA also filed a Petition for Waiver of the Statutory Definition of its Fully Projected Future Test Year (“PWSA Petition for Waiver of Definition of FPFTY”) to permit a FPFTY beginning January 1, 2019 instead of April 1, 2019.²⁶

²³ See 66 Pa. Code § 3203.

²⁴ *PWSA Petition to Consolidate*, R-2018-3002645 et al, July 2, 2018.

²⁵ *Id.* at 6-7.

²⁶ *PWSA Petition for Waiver of Definition of FPFTY*, R-2018-3002645 et al, p. 7, July 2, 2018.

3. I&E entered its appearance in this matter on July 6, 2018.

4. On July 12, 2018, pursuant to 66 Pa. C.S. § 1308(d), the Commission ordered suspension of PWSA's proposed tariffs until March 31, 2019, unless permitted by Commission Order to become effective at an earlier date.

5. On July 12, 2018, the Commission assigned PWSA's tariff filings to the Office of Administrative Law Judge ("OALJ") for the development of an evidentiary record, including a Recommended Decision. The OALJ assigned the proceeding to Deputy Chief Administrative Law Judge Mark A. Hoyer ("ALJ Hoyer") and Administrative Law Judge Conrad A. Johnson ("ALJ Johnson") (collectively, the "ALJs").

6. The ALJs conducted a telephonic prehearing conference in this matter on July 19, 2018. Counsel for the following parties attended: I&E, PWSA, the Office of the Consumer Advocate ("OCA"), the Office of the Small Business Advocate ("OSBA"), and Pittsburgh UNITED ("UNITED").²⁷ At the prehearing conference, counsel agreed to a litigation schedule that included dates for service of written testimony and dates for evidentiary hearings.

7. On July 20, 2018, ALJs Hoyer and Johnson issued a Prehearing Order that, *inter alia*, adopted the parties' agreed upon litigation schedule. Additionally, the

²⁷ Since the Prehearing Conference, James Ferlo, Peoples Natural Gas Company ("Peoples"), Duquesne Light Company ("Duquesne"), and Pennsylvania American Water Company ("PAWC") have filed Formal Complaints in this case. On October 24, 2018, Peoples filed a Petition to Withdraw its Complaint and the Petition was granted on November 14, 2018.

Prehearing Order granted PWSA's Petition to Consolidate and its Petition for Waiver of Definition of FPFTY.

8. I&E attended all of the following Public Input Hearings held in this proceeding within PWSA's service territory: September 4 at 1:00 and 7:00 p.m. at the Allegheny Center Alliance Church, September 5 at 7:00 p.m. at the Kingsley Community Center, and September 6, 2018 at 7:00 p.m. at Jeron X. Grayson Community Center.

9. On September 28, 2018, PWSA filed its Compliance Plan, which included its LTIIP, at docket nos. M-2018-2640802 and M-2018-2640803.

10. In accordance with the litigation schedule in this rate case, I&E served its direct, rebuttal, and surrebuttal testimony and accompanying exhibits in this case on September 25, 2018, October 26, 2018, and November 8, 2018, respectively as listed below.

- I&E Statement No. 1: the Direct Testimony of Anthony Spadaccio
- I&E Exhibit No. 1: the Exhibit to accompany the Direct Testimony of Anthony Spadaccio
- I&E Statement No. 1-R: the Rebuttal Testimony of Anthony Spadaccio
- I&E Statement No. 1-SR: the Surrebuttal Testimony of Anthony Spadaccio
- I&E Exhibit No. 1-SR: the Exhibit to accompany the Surrebuttal Testimony of Anthony Spadaccio
- I&E Statement No. 2: the Direct Testimony of D.C. Patel
- I&E Exhibit No. 2: the Exhibit to accompany the Direct Testimony of D.C. Patel

- I&E Statement No. 2-R: the Rebuttal Testimony of D.C. Patel
- I&E Exhibit No. 2-R: the Exhibit to accompany the Rebuttal Testimony of D.C. Patel
- I&E Statement No. 2-SR: the Surrebuttal Testimony of D.C. Patel
- I&E Statement No. 3: the Direct Testimony of Ethan H. Cline
- I&E Exhibit No. 3: the Exhibit to accompany the Direct Testimony of Ethan H. Cline
- I&E Statement No. 3-R: the Rebuttal Testimony of Ethan H. Cline
- I&E Statement No. 3-SR: the Surrebuttal Testimony of Ethan H. Cline
- I&E Statement No. 4: the Direct Testimony of Israel E. Gray
- I&E Exhibit No. 4: the Exhibit to accompany the Direct Testimony of Israel E. Gray
- I&E Statement No. 4-SR: the Surrebuttal Testimony of Israel E. Gray

11. During the course of this proceeding, I&E and other parties engaged in substantial formal and informal discovery.

12. In accordance with Commission policy favoring settlements,²⁸ I&E participated in multiple in-person and telephonic settlement discussions with the Company and other parties to the proceeding. Following extensive settlement

²⁸ 52 Pa. Code § 5.231.

negotiations, PWSA, I&E, OCA, OSBA, and UNITED (collectively, the “Joint Petitioners”) reached a global settlement.²⁹

13. After being informed of the global settlement, the ALJs held an evidentiary hearing in this case on November 14, 2018. At the hearings, parties moved for the admission of their testimony into the record, and all of I&E’s above-referenced testimony and exhibits were admitted into the record.

II. THE TERMS AND CONDITIONS OF THE SETTLEMENT ARE IN THE PUBLIC INTEREST

14. It is the policy of the Commission to encourage settlements.³⁰ The Commission issued the following policy statement that articulates general settlement guidelines and procedures for major rate cases:

In the Commission’s judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding. It is also the Commission’s judgment that the public interest will benefit by the adoption of §§ 69.402—69.406 and this section which establish guidelines and procedures designed to encourage full and partial settlements as well as stipulations in major section 1308(d) general rate increase cases.³¹

The above-referenced policy statement highlights the importance of settlement in Commission proceedings. The instant rate case was filed on July 2, 2018; therefore, for almost five months, the parties engaged in extensive formal and informal discovery,

²⁹ PAWC and Duquesne do not oppose the Settlement (Joint Petition, p. 1, footnote 1).

³⁰ 52 Pa. Code § 5.231.

³¹ 52 Pa. Code § 69.401.

preparation of testimony, and lengthy settlement discussions. All signatories to the Joint Petition actively participated in and vigorously represented their respective positions during the course of the settlement process. As such, the issues raised by I&E have been satisfactorily resolved through discovery and discussions with the parties and are incorporated in the Joint Petition. I&E represents that the Settlement satisfies all applicable legal standards and results in terms that are preferable to those that may have been achieved at the end of a fully litigated proceeding. Accordingly, for the reasons articulated below, I&E maintains that the proposed Settlement is in the public interest and requests that the following terms be approved by the ALJs and the Commission without modification:

A. Revenue Requirement (Joint Petition, Section III ¶¶ A(1)-A(2))

At the outset of this case, PWSA requested an increase in combined water and wastewater annual operating revenues of \$27 million, or approximately 17.1%.³² PWSA's requested increase was comprised of a request for changes to increase total annual operating revenues for water service by approximately \$21.38 million, or 22.01%, and for wastewater service by \$5.63 million, or 9.25%.³³ However, pursuant to the Joint Petition, the Settlement Rates are designed to produce additional annual operating revenue of only \$21 million.³⁴ The Settlement increase is comprised of an increase in annual revenue for water service by approximately \$16.639 million, or 17.1%; and an

³² PWSA St. No. 1, p. 14.

³³ Joint Petition, p. 3, footnote 3.

³⁴ Joint Petition, Exhibit C (Summary of Proof of Revenues).

increase to PWSA's total annual revenues for wastewater conveyance service by approximately \$4.374 million, or 7.2%.³⁵ Below is a summary that compares both the water and wastewater customer billing impacts at the revenue increase requested by PWSA, and the agreed upon increase contained in the Settlement:³⁶

Customer Impacts	Meter Size	Use (kgal)	User Charges			% Increase		\$ Increase	
			Existing	Filed	Settlement	Filed	Settlement	Filed	Settlement
<i>Residential</i>									
Water	5/8"	3 kgal	\$ 42.07	\$ 49.83	\$ 49.35	18.4%	17.3%	\$ 7.76	\$ 7.28
Wastewater Conveyance	5/8"	3 kgal	21.55	24.40	23.14	13.2%	7.4%	2.85	1.59
Total Monthly Bill			\$ 63.62	\$ 74.23	\$ 72.49	16.7%	13.9%	\$ 10.61	\$ 8.87
<i>Commercial</i>									
Water	1"	13 kgal	\$ 148.02	\$ 187.09	\$ 173.66	26.4%	17.3%	\$ 39.07	\$ 25.64
Wastewater Conveyance	1"	13 kgal	85.98	96.03	92.30	11.7%	7.4%	10.05	6.32
Total Monthly Bill			\$ 234.00	\$ 283.12	\$ 265.96	21.0%	13.7%	\$ 49.12	\$ 31.96
<i>Industrial</i>									
Water	4"	680 kgal	\$ 5,505.62	\$ 7,266.88	\$ 6,458.38	32.0%	17.3%	\$ 1,761.26	\$ 952.76
Wastewater Conveyance	4"	680 kgal	3,903.90	4,797.91	4,191.11	22.9%	7.4%	894.01	287.21
Total Monthly Bill			\$ 9,409.52	\$ 12,064.79	\$ 10,649.49	28.2%	13.2%	\$ 2,655.27	\$ 1,239.97
<i>Health or Education</i>									
Water	2"	50 kgal	\$ 649.46	\$ 762.62	\$ 761.70	17.4%	17.3%	\$ 113.16	\$ 112.24
Wastewater Conveyance	2"	50 kgal	381.84	369.11	410.16	-3.3%	7.4%	(12.73)	28.32
Total Monthly Bill			\$ 1,031.30	\$ 1,131.73	\$ 1,171.86	9.7%	13.6%	\$ 100.43	\$ 140.56

³⁵ Joint Petition, p. 1, footnote 2.

³⁶ Joint Petition, Exhibit C, (Summary of Proof of Revenues), Impacts.

In arriving at the Settlement Rates, I&E, along with the other Joint Petitioners, analyzed the ratemaking claims contained in PWSA's base rate filings including its operating and maintenance expenses, debt service coverage ratio, and rate structure. The Settlement represents a \$6 million savings for PWSA's customers compared to proposed rates, and, as more fully explained below, it provides for additional and necessary programming and infrastructure replacement and improvement beyond that which was contemplated in PWSA's rate filing. For these reasons, and for the reasons more fully explained below, I&E fully supports the revenue levels compromised upon in the Settlement. Additionally, because this is PWSA's first base rate case and because of the concerns cited by the General Assembly that culminated in PWSA being placed under the Commission's jurisdiction, I&E believes several critical factors that were considered in its evaluation of PWSA's revenue requirement bear mentioning here.

First, it must be recognized that the General Assembly has imposed a specific statutory obligation upon the Commission to ensure that PWSA is permitted to impose, charge or collect rates or charges as necessary to permit it to comply with its covenants to the holders of any bonds or other financial obligations.³⁷ Additionally, during the course of this rate proceeding, Moody's, a credit rating agency, downgraded PWSA's credit rating from A2 with a negative outlook to A3 with a negative outlook, with debt burden, coverage and liquidity levels being listed as factors in its decision for the downgrade.³⁸ Finally, in its filing, PWSA claimed that additional revenue was necessary because of

³⁷ 66 Pa. C.S. § 3208 (c)(1); I&E St. No. 1, p. 10.

³⁸ PWSA St. No. 3R, p. 3; Ex. KLC-3.

increased costs, revised sales projections that showed a reduction in sales compared to the 2018 forecast, a need for PWSA to maintain its credit rating so that it could raise future capital on reasonable terms, and its commitment to undertake a comprehensive Capital Improvement Plan that will require increased operating and construction expenditures.³⁹ I&E submits these facts warrant consideration in the determination of PWSA's revenue requirement and it is I&E's position that they have been adequately considered and addressed through this Settlement.

Importantly, the Settlement also includes a safeguard to ensure that any excess revenue that may result if PWSA's actual 2019 revenue net of expenses produce a surplus greater than its FPFTY projections is prudently spent and that PWSA accounts for that spending. More specifically, the Settlement provides that any surplus revenue may be devoted only to the following enumerated uses: 1) add to its year end "days cash on hand"; 2) pay down its operating or construction line of credit; and/or 3) repay an item in PWSA's borrowing portfolio.⁴⁰ Additionally, PWSA has committed to providing quarterly reports to the parties in this case that will identify the amount of the surplus revenue, the use for which the surplus revenue was devoted, and the rationale for the use of the funds. I&E submits that this term was an essential term in order to secure its agreement to this Settlement and necessary to protect the public interest for several reasons.

³⁹ PWSA St. No. 1, pp. 15-17.

⁴⁰ Joint Petition, p. 7, ¶(A)(2)(f).

First, while this term ensures that while PWSA will retain managerial discretion in the form of selecting which of the three enumerated uses would most benefit PWSA's operations, it also ensures that any surplus revenue is put to a use designed to stabilize PWSA's operations. As indicated above, Moody's recently downgraded PWSA's credit rating, and in its report, it referenced that factors that could lead to an upgrade would be "meaningful reduction in leverage" and "substantial improvement in liquidity."⁴¹ With this in mind, each of the prospective uses identified above are targeted either to reducing PWSA's debt and improving its liquidity, as I&E avers that the public interest is served when PWSA takes steps to improve its credit rating in order to increase its access to financing necessary capital improvements.

Additionally, compelling PWSA to report the use for which it devoted any surplus revenues and the rationale for its selection of that use will ensure that PWSA is accountable to its ratepayers and to the Commission for the use of any surplus. I&E submits that ensuring that PWSA is completely accountable to ratepayers for the use of all revenue is not only in the public interest, but it is consistent with addressing the concerns regarding accountability that the General Assembly raised in Co-Sponsorship Memoranda for HB 1490 that culminated in providing the Commission jurisdiction over PWSA.

⁴¹ PWSA Ex. KLC-3, p. 2.

Although for purposes of necessary context, I&E has elected to highlight the above revenue requirement considerations that are unique to PWSA's operations as they pertain to its first jurisdictional rate proceeding, it is important to note, however, that due to the "black box" nature of the Settlement, there is no agreement upon individual issues. Instead, the Joint Petitioners have agreed to an overall increase to base rates that is less than what was requested by PWSA. Line-by-line identification and ultimate resolution of every issue raised in the proceeding is not necessary to find that the Settlement satisfies the public interest nor could such a result be achieved as part of a settlement. Black box settlements benefit ratepayers because they allow for the resolution of a contested proceeding at a level of increase that is below the amount requested by the regulated entity and in a manner that avoids the significant expenditure of time and resources related to further litigation.

Black box settlements are not uncommon in Commission practice. Indeed, the Commission has endorsed the use of black box settlements, as discussed in the following Order approving such a settlement:

We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. *See, Pa. PUC v. Wellsboro Electric Co.*, Docket No. R-2010-2172662 (Final Order entered January 13, 2011); *Pa. PUC v. Citizens' Electric Co. of Lewisburg, PA*, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and

interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. For these reasons, we support the use of a "black box" settlement in this proceeding and, accordingly, deny this Exception.⁴²

I&E individually, and the Joint Petitioners collectively, considered, discussed, and negotiated all issues of import in this Settlement. From a holistic perspective, each party has agreed that the Settlement benefits its particular interest. The Commission has recognized that a settlement "reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest."⁴³ The Settlement in this proceeding promotes the public interest because a review of the testimony submitted by all parties demonstrates that the Joint Petition reflects a compromise of the litigated positions held by those parties. Therefore, I&E submits that the Settlement balances the interests of PWSA and its customers in a fair and equitable manner.

Public utility regulation as it applies to PWSA allows for the recovery of prudently incurred expenses as ensuring that PWSA is permitted to impose, charge or collect rates or charges as necessary to permit it to comply with its covenants to the holders of any bonds or other financial obligations. The increases proposed in this Settlement respect this principle. Ratepayers will receive safer and more reliable service at just and reasonable rates while allowing PWSA sufficient additional revenues to meet its operating and capital expenses and to satisfy its bond covenants and financial obligations.

⁴² *Pa. P.U.C. v. Peoples TWP LLC*, Docket No. R-2013-2355886, p. 28 (Order entered December 19, 2013).

⁴³ *Pa. P.U.C. v. C S Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991).

Accordingly, I&E submits that the proposed Settlement is in the public interest and requests that it be approved by the ALJs and the Commission without modification.

B. Revenue Allocation And Rate Design (Joint Petition, Section III ¶¶ B(1)-B(10))

i. Revenue allocation⁴⁴

The Joint Petitioners agree the Settlement rate increase shall be allocated as proposed by OCA witness Scott Rubin, with a proportionate increase to all existing rates. Additionally, the Joint Petitioners agree that no precedent has been established in this base rate case for the allocation and recovery of low-income assistance program (“BDP-CAP”) costs and lead service line (“LSL”) replacement costs. Parties reserve the right to make proposals regarding cost allocation for lead service line replacement programming and low-income programming in PWSA’s next rate proceeding.

I&E recommended that 79% of any scale back be applied to the water increase and the remaining 21% of a scale back be applied to wastewater operations.⁴⁵ This recommendation excluded contract revenue, which should not be scaled back since the contract rates are established by contract agreements. These percentages approximate the proposed allocation of the total increase between water and wastewater proposed by PWSA.

PWSA disagreed with I&E’s recommendation, noting that some of the proposed adjustments have a greater impact on the revenue requirements for one utility than for the

⁴⁴ Joint Petition, pp. 8-9, ¶¶(B)(1), (B)(10).

⁴⁵ I&E St. No. 3, p. 37.

other.⁴⁶ PWSA stated it would be more consistent with cost of service principles to base each utility's rates on the actual revenue requirements of that utility. I&E agreed with this approach.⁴⁷

OSBA also disagreed with I&E's recommendation because it did not reflect its recommendation to reallocate the BDP-CAP and LSL Program costs fully to the residential classes.⁴⁸ I&E disagreed that the BDP-CAP and LSL Program costs should be fully allocated to the residential classes.⁴⁹ Several other parties disagreed that these costs should be allocated solely to residential classes.⁵⁰

In summary, OCA witness Rubin concluded PWSA's failure to include data for the City of Pittsburgh's ("City") water and wastewater usage, as well as inaccuracies in estimating fire protection costs, rendered PWSA's cost-of-service studies grossly inaccurate and unsuitable for use. In the absence of meaningful cost studies, OCA witness Rubin recommended that each retail rate element (i.e., each customer charge and volumetric charge) should be increased by the same percentage to achieve the water and wastewater revenue requirements determined by the Commission.⁵¹

After careful consideration of all parties' positions, I&E supports these Settlement terms as reasonable given the unique circumstances of this case. As OCA witness Rubin states, and as further discussed in Sections II.B.iv, II.G.i, II.H.iv below, PWSA needs to

⁴⁶ PWSA St. No. 5-R, p. 24.

⁴⁷ I&E St. No. 5-SR, p. 25.

⁴⁸ OSBA St. No. 1-R, pp. 5-6.

⁴⁹ I&E St. No. 5-SR, p. 23.

⁵⁰ PWSA St. No. 5-R; OCA St. No. 2R; OCA St. No 4R; Pittsburgh UNITED St. No. 1-R.

⁵¹ OCA St. No. 2, p. 22.

address the status of the City as a customer as soon as possible. Additionally, I&E believes it is reasonable to allow parties to make proposals regarding BDP-CAP and LSL Program costs in PWSA's next base rate proceeding. These Settlement terms were necessary to achieve a collective resolution of this case and I&E asserts they are just and reasonable.

ii. Billing data⁵²

PWSA agrees to use at least two years of billing data in the next base rate case and agrees to use at least three years of billing data in future base rate cases as a general standard. If PWSA or any other party to future base rate cases deviates from the use of the three years of data, that party must establish that such deviation is warranted.

As the basis for its demand projections used in the class cost of service study ("CCOSS"), PWSA used only one year of billing data, 2017.⁵³ PWSA elected to exclude billing data from 2015 and 2016 because of billing issues.

I&E did not agree with PWSA's use of a single year of data to determine demand projections because there is a risk that the year selected is an anomaly that skews the demand projections unnaturally high or low. I&E recommended PWSA should include additional data in its demand projections as it becomes available.⁵⁴ PWSA did acknowledge that demand projections would typically be based on at least three years of historical billing data.⁵⁵ Additionally, PWSA agreed there should be at least two years of

⁵² Joint Petition, p. 8, ¶(B)(2).

⁵³ PWSA St. No. 5, p. 13.

⁵⁴ I&E St. No. 3, p. 25.

⁵⁵ PWSA St. No. 3, p. 25.

reliable customer billing data for the development of demand projections and class peaking factors.⁵⁶

I&E supports this Settlement term because it satisfies I&E's recommendation to use more than one year of billing data. Additionally, the use of at least two years of billing data is reasonable as the amount of data is contingent on the timing of PWSA's next base rate filing. If more than two years of billing data is available, I&E expects PWSA will use it.

iii. Wholesale water customers⁵⁷

PWSA agrees to allocate costs to wholesale water customers as part of its CCOSS in the next base rate case; however, PWSA does not necessarily agree to make any changes to the rates for wholesale water customers if unable to do so due to the need to honor the terms of existing contracts. Additionally, to the extent the overall rate increase is reduced, PWSA agrees that there should be a proportionate increase for wholesale customer class customers, to the extent permitted by the existing contracts.

PWSA stated it did not allocate costs to wholesale customers in its CCOSS because wholesale rates are determined based on existing contractual relationships between PWSA and each wholesale customer.⁵⁸ I&E asserted it is not reasonable to exclude wholesale customers in the CCOSS because, absent an allocation of costs to the

⁵⁶ I&E St. No. 3, p. 15.

⁵⁷ Joint Petition, pp. 8-9, ¶¶(B)(3), (B)(9).

⁵⁸ PWSA St. No. 5, p. 15.

wholesale customers, it is not possible to determine whether the rates paid by those customers will be enough to cover the cost to serve them.⁵⁹

I&E supports this Settlement term because it adopts I&E's recommendation to include wholesale customers in the CCOSS. I&E acknowledges PWSA's statement that it does not necessarily agree to make any changes to wholesale water customer rates if it is bound by existing contracts. However, I&E believes it is important to identify the cost to serve wholesale customers separately so that appropriate rates can be negotiated to recover as much of the cost as possible. Additionally, if those rates do not generate sufficient revenue to cover the costs, any revenue shortfall can be allocated across the other revenue classes. Accordingly, I&E supports this Settlement term.

iv. Public fire hydrants⁶⁰

PWSA agrees to show the cost of public fire hydrants service separately in the next base rate case. Additionally, as discussed at II.H.iii below, the timing of a proposed public fire hydrant rate will be considered in the Compliance Plan proceeding.

PWSA currently does not charge the City for the 7,400 hydrants in its service area.⁶¹ Instead, costs are recovered from all PWSA customers. Further, despite PWSA allocating the cost of public fire hydrants across all water customers, the City does not pay any of those costs because it does not pay water charges.⁶² If PWSA did charge the City for fire hydrant service, it could receive approximately \$1.8 million annually.

⁵⁹ I&E St. No. 3, p. 26.

⁶⁰ Joint Petition, p. 8, ¶(B)(4).

⁶¹ I&E St. No. 3, p. 17.

⁶² As discussed in Sections II.G.i, II.H.iv below.

Because public fire hydrants are a service that is provided to the City, I&E asserted the City should be assessed a rate for the public fire hydrant service by no later than PWSA's next base rate case.⁶³

PWSA provided two reasons why it did not propose a charge for public fire hydrants in this rate case.⁶⁴ First, it claims that the Cooperation Agreement between PWSA and the City does not allow such a charge. Pursuant to such agreement, PWSA is obligated to provide the City up to 600 million gallons of free water annually.⁶⁵ Second, it is unclear whether the public fire protection services provided by PWSA meet the requirements for such service. Nonetheless, PWSA agreed that the City should be charged for PWSA's costs associated with providing public fire protection.⁶⁶

Additionally, PWSA stated that the issue is being addressed as the City and PWSA work to renegotiate the Cooperation Agreement and hopefully the matter could be addressed in the CCOSS in PWSA's next rate filing.

As discussed in Section II.G.i below, I&E recognizes PWSA's position that it has certain contractual obligations to the City under the Cooperation Agreement, including the provision of limited free water service. However, I&E also asserts PWSA must charge the City rates for water and wastewater service at its cost of service to be compliant with the Code.

⁶³ I&E St. No. 3, p. 19.

⁶⁴ I&E Ex. No. 3, Sch. 8.

⁶⁵ I&E Ex. No. 2, Sch. 13, p. 7.

⁶⁶ PWSA St. No. 5-R, p. 4.

Despite this clear principle, it is important to recognize the unique nature of this proceeding where 1) negotiations between the City and PWSA regarding the Cooperation Agreement are ongoing and 2) a Compliance Plan proceeding is currently pending where this issue will be addressed. Renegotiation of the Cooperation Agreement before this case was filed was likely impracticable because of the short timeframe for filing this case. Also, if I&E was to impute revenue to PWSA for free water service and decrease the recommended revenue requirement, in practical terms, PWSA could possibly risk default of its bond covenants because it would likely be unable to collect such revenue from the City because of the Cooperation Agreement. As mandated by section 3208(c)(1) of the Code, the Commission must permit PWSA to collect rates as necessary to comply with its bond covenants.

Accordingly, I&E supports this Settlement term, which will allow PWSA time to further negotiate the Cooperation Agreement term with the City. However, as also discussed in Section II.G.i, I&E expects PWSA will expeditiously renegotiate the Cooperation Agreement so its rates comply with the Code. It will not be acceptable for PWSA to continue to provide the City with water and wastewater service as currently designed absent the unique circumstances of this current base rate proceeding. I&E will continue to advocate its position and adjust its recommendations as appropriate as it continues to monitor PWSA's progress in renegotiating the Cooperation Agreement through the Compliance Plan proceeding.

v. Separately identifying uncollectible accounts⁶⁷

In its next base rate case PWSA agrees to separately identify uncollectible accounts expense by class and allocate those costs in the water and wastewater cost of service studies to the various customer classes. I&E did submit testimony recommending improvements to PWSA's uncollectibles,⁶⁸ but did not submit testimony regarding separately identifying uncollectible accounts. This was an issue first raised by the OCA.⁶⁹ However, I&E was involved in the discussion of this issue, which was vetted during settlement negotiations. I&E supports this term as it was necessary for a collective resolution of this case.

vi. Max-day and max-hour adjustment factors⁷⁰

In its next base rate case PWSA agrees to gather detailed customer class consumption data necessary to implement class specific max-day and max-hour adjustment factors. I&E did not submit any testimony regarding max-day and max-hour adjustment factors. This was an issue first raised by OSBA.⁷¹ However, I&E was involved in the discussion of this issue, which was vetted during settlement negotiations. Therefore, I&E supports this term as it was necessary for a collective resolution of this case.

⁶⁷ Joint Petition, p. 8, ¶(B)(5).

⁶⁸ See Section II.H.viii below.

⁶⁹ OCA St. No. 2, p. 16.

⁷⁰ Joint Petition, p. 8, ¶(B)(6).

⁷¹ OSBA St. No. 1, p. 15.

vii. Removal of minimum usage allowances⁷²

PWSA currently includes a water usage allowance with its monthly minimum charge, which varies by meter size.⁷³ PWSA suggested it might have eliminated the usage allowance in the minimum charge if, among other things, there had been more time to prepare its rate filing.⁷⁴

I&E does not believe PWSA should include a usage allowance with its minimum charge. However, I&E does not recommend that PWSA be required to remove the usage allowance from its minimum charge in this rate case because I&E agrees that it does not appear that PWSA can immediately resolve this issue. Therefore, I&E believes it is reasonable for PWSA to make this adjustment as part of its next base rate case, as the Settlement provides.⁷⁵ I&E also believes it is reasonable that, should the removal produce an unreasonable increase for affected customers, PWSA will be allowed to explain if it believes the removal will produce an unreasonable increase for affected customers and provide an alternative proposal. For these reasons, I&E fully supports this Settlement provision.

viii. Infiltration cost remediation⁷⁶

PWSA agrees to submit a plan to address infiltration cost remediation, to the extent such costs are known and relevant, in the next wastewater base rate case and to

⁷² Joint Petition, p. 8, ¶(B)(7).

⁷³ PWSA St. No. 5, p. 15.

⁷⁴ PWSA St. No. 5, p. 18.

⁷⁵ I&E St. No. 3, p. 31.

⁷⁶ Joint Petition, p. 9, ¶(B)(9).

provide data to allocate infiltration costs to customer classes in future cost of service studies.

I&E did not submit any testimony regarding infiltration cost remediation. This issue was first raised by OSBA.⁷⁷ However, I&E was involved in the discussion of this issue, which was vetted during settlement negotiations. Therefore, I&E supports this term as it was necessary for a collective resolution of this case.

C. Infrastructure/Operations/Lead (Joint Petition, Section III ¶¶ C(1)-C(2))

Parties submitted extensive testimony regarding PWSA's lead service line replacement program (LSLRP).⁷⁸ PWSA expects to receive approximately \$50 million from PennVEST to replace lead service lines in 2019 and 2020. With these funds, PWSA plans to replace approximately 3,400 public-side lead service lines and 2,800 private-side lead service lines in several neighborhoods.

I&E expressed concern that PWSA's lead line replacement plan did not include basic information about its program, and accordingly, it was not possible to evaluate whether PWSA's proposed replacements are cost-effective.⁷⁹ At public input hearings in September 2018, PWSA customers expressed similar concern that if more infrastructure spending results from rate increases, it should be clear where the lead service line replacements are occurring.⁸⁰ At the same time, these customers also indicated support

⁷⁷ OSBA St. No. 1, p. 20.

⁷⁸ See PWSA St. No. 1, pp. 8-10; I&E St. No. 4, pp. 5-6; Pittsburgh UNITED St. No. 2, pp. 64-65, 83-88, 95; Pittsburgh UNITED St. No. 4; Pittsburgh UNITED St. No. 5; OSBA St. No. 1, pp. 9-10; OCA St. No. 5, p. 4.

⁷⁹ I&E St. No. 4, pp. 3-7.

⁸⁰ Transcript of Public Input Hearing, September 4, 2018, 7 p.m., Docket Nos. R-2018-3002645 & R-2018-3002647, p. 103 (Testimony of PWSA customer Madeline Weiss); Transcript of Public Input Hearing,

for infrastructure improvements through rate increases, including prioritizing safe drinking water.

After settlement negotiations, PWSA agreed to numerous terms regarding its LSLRP.⁸¹ In summary, through the Settlement, PWSA agrees to form a Community Lead Response Advisory Commission (“CLRAC”) consisting of interested parties from this proceeding, representatives from local community groups, and a public health expert to be agreed upon by the parties to advise PWSA. The CLRAC will provide consultation and feedback on PWSA’s lead service line replacement program and lead remediation efforts in 2019 and 2020. The Settlement lists numerous issues CLRAC and PWSA will address, including:

- PWSA will develop and implement a plan, in consultation with CLRAC, to encourage greater participation in PWSA’s replacement program and reduce the number of property owners who refuse to have their private-side service line replaced;
- PWSA will begin tracking customers’ reasons for rejecting service line replacements;
- PWSA will make all historical service line records available for public viewing on its website map;
- PWSA will make its best efforts to send a letter notifying the resident and property owner of the results of curb box inspections;

September 6, 2018, 7 p.m., Docket Nos. R-2018-3002645 & R-2018-3002647, pp. 255-256 (Testimony of PWSA customer Glen Grayson, Jr.).

⁸¹ Joint Petition, pp. 9-13.

- PWSA will present to the CLRAC an analysis of its per-line costs for replacing lead service lines to facilitate a discussion of the drivers of those costs;
- PWSA will develop and implement a plan in consultation with CLRAC and the Low Income Assistance Advisory Commission to encourage greater participation in its customer requested lead sampling program and continue to provide water testing kits, filters and replacement cartridges to certain households. An outreach program will be developed to notify customers of their eligibility for a filter;
- PWSA will develop and implement a plan in consultation with CLRAC for prioritizing lead service line replacements where curb box inspections are completed in certain neighborhoods based on certain criteria;
- PWSA will prepare a study in consultation with CLRAC on the feasibility of including all lead service lines in PWSA's 2019 LSLRP and 2020 to 2026 small diameter water main replacement program; and
- Various efforts to minimize the number of partial lead service line replacements.

I&E supports these Settlement terms because they provide robust, detailed and immediate oversight to PWSA's LSLRP. PWSA's LSLRP is central to customer safety and reliability of service and these Settlement terms help ensure the program is implemented efficiently and effectively. However, PWSA's implementation of a LSLRP will be an important issue that I&E anticipates will need to be addressed in future PWSA proceedings until the problem is resolved. As discussed in Section II.H.v below, PWSA's LSLRP will be further addressed in the Compliance Plan proceeding. Because PWSA's LSLRP has been thoroughly addressed through settlement negotiations, I&E supports the terms related to PWSA's LSLRP.

D. Customer Service Issues ((Joint Petition, Section III ¶¶D(1)- D(11))

The Joint Petition memorializes a series of commitments that PWSA has made or will make to refine and improve its customer service practices. More specifically, PWSA has committed to the following:

- (1). continuing its tracking of informal complaint information, including tracking whether the complaints are related to water, sewer, or stormwater;
- (2). undertaking a process to modify its bills to provide more detailed information on rates and approved tariff changes;
- (3). continuing its practice of issuing written confirmation of payment arrangement terms;
- (4). revising its 3-day and 48-hour termination notices to clarify that all residential customers have the right to negotiate a payment plan to avoid termination of service;
- (5). informing customers of the payment arrangement terms based on the customers' ability to pay upon contact with the customer;
- (6). reforming its internal medical certificate policies to, inter alia, better inform customers of renewal options, stop termination when presented with an approved certificate, and accept additional medical certificates to prevent termination of service as long as the customer is paying their current bills for service;
- (7). reforming its internal policies governing complaint procedures to clarify that its dispute process is available to current customers, applicants for service, and tenants and/or occupants not listed on the current bill;
- (8). accepting documents issued by public agencies or public utilities that contain the name and address of the tenant as proof of identification in circumstances where a tenant exercises their right to continued service pursuant to the Discontinuance of Services to Leased Premises Act ("DSLPA");

- (9). creating a new DSLPA-compliant form for use when owners desire to voluntarily discontinue service to a residential property occupied by a tenant; and
- (10). committing to implementing the aforementioned practices in compliance with the Final Order in this case.⁸²

Although I&E did not take a formal position regarding these terms, I&E notes that both the OCA and Pittsburgh UNITED provided substantial support for them in the record.⁸³ Additionally, I&E also supports these terms because they are largely geared towards better informing customers about the facts of their utility service, their rights as utility customers, and towards improving PWSA's service to its customers.

By way of example, PWSA's commitment to updating its bills to identify, explain and itemize the actual rates charged will enable its customers to better understand their bills. Furthermore, PWSA's agreement to revise its form for property owners who voluntarily discontinue service to residential properties believed to be occupied by a tenant are consistent with its obligations to obtain documentation required by DSLPA.⁸⁴ Additionally, PWSA's agreement to inform customers of payment arrangement terms that are available based on their ability to pay will ensure that customers are aware of their rights if they are unable to pay their bill in full. Moreover, PWSA's plan to track informal customer complaints and to categorize them by water, wastewater, and stormwater service will better enable PWSA to identify and address common complaints to facilitate a better and more targeted response to service and other reported issues.

⁸² Id. at 14-16.

⁸³ OCA St. No. 3; UNITED St. No. 2; UNITED St. No. 3; OCA St. No. 3SR; UNITED St. No. 3-SR.

⁸⁴ UNITED St. No. 3, p. 11.

E. Tariff Issues (Joint Petition, Section III ¶¶ E(1)-E(7))

i. Jordan Tax Service⁸⁵

On the basis of PWSA coming under the jurisdiction of the Code and the Commission's regulations PWSA agrees to suspend the use of Jordan Tax Service upon the effective date of the Commission's final order approving this Settlement.

I&E did not submit any testimony regarding Jordan Tax Service. Both OCA and Pittsburgh UNITED provided testimony recommending PWSA either limit or eliminate the use of Jordan Tax Service in its collections activities.⁸⁶ I&E was involved in the discussion of this issue during settlement negotiations, where it was fully vetted. Accordingly, I&E supports this term as it was necessary for a global resolution of this case.

ii. Revisions to various customer policies⁸⁷

PWSA agreed to various tariff and training material revisions regarding not assessing duplicate fees for dual water/wastewater customers,⁸⁸ receiving consent to provide electronic customer termination notices,⁸⁹ accepting medical certificates from physician assistants,⁹⁰ removing collections expenses and fees from PWSA's water and

⁸⁵ Joint Petition, p. 17, ¶(E)(5).

⁸⁶ OCA St. No. 3, p. 17; Pittsburgh UNITED St. No. 2, p. 90.

⁸⁷ Joint Petition, pp. 16-17, ¶¶(E)(1), (E)(2)-(E)(7).

⁸⁸ Fees for dual water/wastewater customers was an issue first raised by Pittsburgh UNITED (Pittsburgh UNITED St. No. 2, p. 32).

⁸⁹ Consent to receive electronic customer termination notices was an issued first raised by Pittsburgh UNITED (Pittsburgh UNITED St. No. 2, p. 51).

⁹⁰ Accepting medical certificates from physician assistants was an issue first raised by Pittsburgh UNITED (Pittsburgh UNITED St. No. 2, p. 55).

wastewater tariffs,⁹¹ not requiring a tenant to assume liability for certain debts,⁹² and exempting customers eligible for PWSA's Bill Discount Program from providing security deposits.⁹³

I&E did not submit any testimony regarding these various customer policies. However, I&E supports these terms, which were vetted during settlement negotiations and necessary for a collective resolution of this case. Additionally, although no formal testimony was submitted regarding these issues, I&E supports these terms because I&E believes they are designed to improve PWSA's service to its customers.

F. Low-Income Customer Issues (Joint Petition, Section III ¶¶ F(1)-F(6))

As part of the resolution of this case, the Joint Petitioners agreed to several terms that were intended to address concerns regarding low-income assistance programming in PWSA's service territory. The terms include, inter alia, PWSA's commitment to gather additional and more specific information about its low-income population, establishment of a Low-Income Assistance Advisory Committee ("Advisory Committee"), and the provision for additional funding for its Bill Discount Program. As explained more thoroughly below, I&E supports these terms because they are in the public interest and they were necessary to facilitate a global resolution of issues in this case.

⁹¹ Removal of collections fees from PWSA's proposed water and wastewater tariffs was an issue first raised by Pittsburgh UNITED (Pittsburgh UNITED St. No. 2, p. 90).

⁹² Not requiring a tenant to assume liability for debts previous accrued at the property for which the tenant was not residing and/or for which the tenant was not on the mortgage, deed, or lease as a condition to establishing service was an issue first raised by Pittsburgh UNITED (Pittsburgh UNITED, St. No. 2, p. 42).

⁹³ Exempting customers eligible for PWSA's Bill Discount Program from providing security deposits was an issue first raised by Pittsburgh UNITED (Pittsburgh UNITED, St. No. 2, p. 28).

More specifically, PWSA has agreed to begin collecting additional data necessary to provide a more accurate assessment of its low-income population and the needs of that population. The data that PWSA will collect includes the following information:

- (1). amount of billed revenue;
- (2). amount of receipts collected;
- (3). number of accounts in arrears;
- (4). the dollars of arrears;
- (5). the number of accounts disconnected for nonpayment;
- (6). the number of accounts receiving a notice of disconnection for nonpayment;
- (7). the number of bill discount participants who entered the bill discount program with unpaid account balances;
- (8). the dollars of unpaid account balances for bill discount program participants at the time those participants entered the bill discount program;
- (9). the number of bill discount participants by agreed-upon poverty ranges;
- (10). average usage (along with average bills, including ALCOSAN charges in wastewater bills);
- (11). the number of PWSA customers receiving a PWSA hardship grant and the average amount of the grant; and
- (12). the average arrearage of PWSA customers receiving a PWSA hardship grant.⁹⁴

⁹⁴ Joint Petition, pp. 17-18, ¶¶(F)(1)(a)-(F)(1)(l).

I&E notes that PWSA's agreement to provide this information is consistent with the recommendation of OCA witness Colton.⁹⁵ I&E concurred with witness Colton's assessment that parties' review of PWSA's low-income initiatives was frustrated by PWSA's lack of critical data.⁹⁶ Accordingly, PWSA's commitment to gathering the data outlined in this term is in the public interest because it will enable parties and the Commission to gain a better understanding about the size of PWSA's low-income population, outstanding arrearage amounts, and the need for low-income programming and funding in PWSA's service territory

I&E also notes that the Settlement provides for the establishment of an Advisory Committee⁹⁷ consisting of interested parties from this proceeding, the Commission's Bureau of Consumer Services ("BCS"), Dollar Energy Fund, and local community and social service groups. The Advisory Committee will meet quarterly for at least two years, subject to extension, and be charged with improving low-income outreach, and reviewing and evaluating information relative to PWSA's low-income programming. I&E submits that PWSA's commitment to establish the Advisory Committee is in the public interest because it will enable PWSA to receive input and feedback necessary to inform its practices and policies for low-income programming. I&E also submits that including BCS as an eligible participant in the Advisory Group is consistent with the

⁹⁵ OCA St. No. 4, pp. 23-24.

⁹⁶ OCA St. No. 4, p. 23; I&E St. No. 2-R, pp. 12-13.

⁹⁷ Joint Petition, p. 18, ¶¶(F)(3)(a)-(F)(3)(h).

Commission's previous determination that BCS' analysis of PWSA's operations is important to effective regulation and oversight.⁹⁸

Finally, the Settlement provides that PWSA will revise its Bill Discount Program rate to provide for a 75% discount on the minimum water and/or wastewater charge for customers with income at or below 150% of the federal poverty level.⁹⁹ Currently, under its Bill Discount Program as implemented on January 2, 2018, PWSA offers a 50% reduction on the minimum (fixed) monthly water and wastewater conveyance charge to customers who are at or below 150% of the federal poverty level.¹⁰⁰ During the course of this proceeding, OCA witness Colton recommended that PWSA increase funding for its Bill Discount Program so as to provide for customers with income at or below 50% of the federal poverty level to receive a 100% discount on their water and wastewater minimum charges.¹⁰¹

On the other hand, UNITED witness Miller recommended that PWSA increase its funding for the Bill Discount Program so as to provide for a 50% discount of qualifying customers' fixed charge and volumetric charge, meaning that those customers would receive a 50% discount on their entire bill.¹⁰² Additionally, Mr. Miller opined that alongside his recommendation to increase funding for the Bill Discount Program, PWSA should be compelled to implement a comprehensive arrearage program to earn forgiveness on debt accrued prior to joining the Bill Discount Program.

⁹⁸ *Final Implementation Order*, p. 40.

⁹⁹ Joint Petition, p. 18, ¶¶(F)(4)(a)(i)-(F)(4)(a)(vi).

¹⁰⁰ PWSA St. No. 4, p. 3; I&E Ex. No. 2-R, Sch. 1.

¹⁰¹ OCA St. No. 4, p. 17.

¹⁰² UNITED St. No. 2, p. 75.

I&E witness Patel opposed both witness Colton and witness Miller's recommendations because of the uncertainty of the impact of their recommendations and because he opined that given the uncertainty, they could present significant costs to all customers, particularly unenrolled low-income customers.¹⁰³

Although the Settlement term for increased funding for the Bill Discount Program to provide for a 75% discount on the minimum water and/or wastewater charge (as applicable) conflicts with I&E's litigation position in this case, after careful consideration of the record and as part of a compromise of all parties' positions on this issue, I&E supports this term. One important consideration is that PWSA's ratepayers have absorbed substantial rate increases over the last few years, as supported by witness Miller's testimony that since 2016, PWSA's residential customers have faced increases that have totaled more than 85% above pre-2016 levels.¹⁰⁴ Now, alongside those previous increases, in order to facilitate PWSA's provision of safe and effective service, this rate case will provide for a further increase. I&E is cognizant of the impact this rate increase will impose upon all customers, but particularly among PWSA's most vulnerable customers. I&E is also concerned about circumstances in which PWSA's low-income customers' inability to pay their bills could increase PWSA's already concerning level of uncollectibles, which would negatively impact all PWSA customers.

Additionally, it is important to note that in conjunction with the increased funding for PWSA's Bill Discount Program, PWSA has committed to providing certain

¹⁰³ I&E St. No. 2-R, pp. 9, 12-14.

¹⁰⁴ UNITED St. No. 2, p. 7.

information in its next base rate case that will assist parties and the Commission with evaluating whether the funding and parameters of its low-income program are appropriate and in the public interest. More specifically, the Settlement obligates PWSA to submit a detailed plan that will outline the eligibility parameters, benefits, budget, and needs assessment for each of its low-income assistance programs, including the Bill Discount Program, the Winter Moratorium, and the Hardship Fund.¹⁰⁵ I&E submits the PWSA's agreement to provide this information is essential to protecting the public interest because it is crucial to the determination of whether PWSA's low-income programming is effective, targeted to the needs of its population, and appropriately funded.

Also, PWSA will submit a proposal as to whether to make revisions to the program which are aligned with the newly designed rate structures, separated into water and wastewater programs, and further providing for enhanced Bill Discount Program benefits for customers at or below 50% of the federal poverty level. I&E submits that requiring PWSA to provide this proposal is in the public interest because it will allow parties and the Commission to assess whether the structure of the Bill Discount Program is compatible with PWSA's evolving operations as it continues to transition to the Commission's jurisdiction. Furthermore, as part of its required plan, PWSA has also committed to providing details of the average bill for customers with household income at or below 50%, 51-100%, and 101-150% of the federal poverty level, respectively.¹⁰⁶

¹⁰⁵ Joint Petition, p. 18, ¶(F)(4)(a)(i).

¹⁰⁶ Id. at ¶(F)(4)(a)(v).

Details will also be provided in a manner that separates water and wastewater average bills, to the extent that such data is made available to PWSA by the program administrator, Dollar Energy. I&E submits that PWSA's provision of the average bill information will enable parties and the Commission to determine the water and wastewater burdens of low-income customers, thereby facilitating a review of whether those burdens are at a level that requires additional review of PWSA's low-income programming. Additionally, enabling parties and the Commission to gauge the effectiveness of PWSA's low-income programming is in the public interest because it ensures that ratepayer funds used to pay for low-income programming are spent prudently and that low-income customers are being adequately served by the programming. I&E submits that PWSA and all of its customers benefit when low-income programming is cost-effective, efficient, and it mitigates uncollectible expense, thereby protecting the public interest.

G. Contractual Arrangements (Joint Petition, Section III ¶ G(1))

As part of the Settlement, the Joint Petitioners have agreed to investigate issues regarding the following contractual issues in PWSA's Compliance Filing Proceeding at docket nos. M-2018-2640802 (water) and M-2018-2640803 (wastewater): (1) PWSA's Services Contract (Cooperation Agreement) with the City; (2) PWSA's billing arrangement with the Allegheny County Sanitary Authority ("ALCOSAN"); and (3) any subsidy payments associated with the City of Pittsburgh Discount.¹⁰⁷ However, as

¹⁰⁷ Joint Petition, pp. 20-23, ¶¶(G)(1)(a)-(G)(1)(d). I&E notes that G(1)(d) refers to a term regarding PWSA's relationship with Jordan Tax Service, which I&E addressed in Section E above.

explained more thoroughly below, both the record in this case and the Settlement terms reflect I&E's significant concerns about the rate impact of PWSA's payments for each of these items. Therefore, I&E's agreement to allow the investigation of these items to be conducted through PWSA's Compliance Filing Proceeding was conditioned upon the adoption of several safeguards and without waiver of I&E's positions described in this case. In I&E's view, such safeguards and the reservations of its positions are necessary to ensure that the issues are properly preserved, PWSA has an opportunity to make necessary changes in its operations and procedures, and that parties with interests in the outcome of the resolution of these issues are aware that their interests are implicated.

i. PWSA Services Contract with the City of Pittsburgh

The Settlement memorializes Joint Petitioners' commitment to investigate PWSA's service contract with the City, also known as the Cooperation Agreement, in PWSA's Compliance Plan proceeding, subject to certain conditions.¹⁰⁸ By way of further explanation, the Cooperation Agreement, which became effective on January 1, 1995, is an agreement between the City and PWSA that outlines services that the City will provide to PWSA and how the PWSA is required to pay for those services. Some of the services that the City is to provide to PWSA include telephone and data services, vehicle fuel and repairs, legal aid, computer services, payroll services, and administration of employees' benefit programs. In return, PWSA agrees to provide the City with up to 600 million gallons of free water each year for City agencies, departments, and

¹⁰⁸ Id. at pp. 20-22, ¶¶(G)(1)(a)(i)(a)-(G)(1)(a)(g)

instrumentalities, equalization payments/rate subsidy for water customers in certain portions of the City not serviced by PWSA, and the actual direct and overhead expenses for services provided by the City.¹⁰⁹ PWSA indicated that its Cooperation payment in the FPFTY will be \$7.15 million.¹¹⁰

I&E's review of PWSA's Cooperation payments revealed that the payments lacked cost justification.¹¹¹ Specifically, due to a lack of documentation, it is unclear what services the City provided to PWSA, when any such services were provided, and how much it cost to provide any such services. Additionally, I&E noted that PWSA is not obligated to make a fixed payment of \$7.15 million to the City, but only to reimburse the City for actual expenses incurred in the provision of services to PWSA. Although PWSA indicated that the City historically billed PWSA \$7.15 million annually, PWSA was not provided with detailed invoices to substantiate payment in that amount. Instead, consistent with a recent finding in the Auditor General's Report,¹¹² it appears that City invoices provided did not contain a detailed explanation of what the charges were for, and it was PWSA's practice to simply pay the invoice.¹¹³

I&E also expressed concern with PWSA's provision of free water service, noting that its concerns were exacerbated by the fact that PWSA does not know how much free water the City actually uses because it does not have a complete list of all City-owned

¹⁰⁹ I&E Ex. No. 2, Sch. 13, pp. 1-26.

¹¹⁰ PWSA St. No. 3, p. 7.

¹¹¹ I&E St. No. 2,

¹¹² I&E Ex. No. 3, Schedule 4, p. 3.

¹¹³ I&E St. No. 2, p. 40; I&E Ex. No. 2, Sch. 12, pp. 6-12.

properties that receive free water and many City-owned properties are not metered.¹¹⁴ In the absence of any other available metric, I&E witness Cline referenced the Auditor General's Report which cites a PWSA senior manager's belief that the City's usage may be close to one billion gallons of water annually,¹¹⁵ which, if accurate, represents approximately \$11.4 million in annual revenue PWSA is not collecting for service provided to the City.¹¹⁶

Finally, I&E noted that PWSA's customers shoulder the burden of the City's free service, as exemplified in the following public input testimony by PWSA customer Adam Tuznik:

[I]t upsets me that some people who can't afford to pay their water bill, get their water shut off; meanwhile, large institutions, like city hall, or the zoo, or all of these properties with big parking lots and convey all kinds of stormwater, essentially get a free ride. We need to make sure everyone is paying their fair share.¹¹⁷

As Mr. Tuznik correctly stated, PWSA's provision of free service to the City unfairly impacts its customers.

In consideration of the lack of cost justification for PWSA's Cooperation Agreement and the unknown but likely substantial impact of PWSA's provision of free water service to the City, I&E recommended that PWSA renegotiate the Cooperation Agreement with the City by no later than September 30, 2019.¹¹⁸ In order to ensure fair,

¹¹⁴ I&E St. No. 3, p. 10.

¹¹⁵ I&E Ex. No. 3, Sch. 4, p. 32.

¹¹⁶ I&E St. No. 3, p. 10

¹¹⁷ Transcript of Public Input Hearing, September 5, 2018, 7 p.m., Docket Nos. R-2018-3002645 & R-2018-3002647, pp. 171-172.

¹¹⁸ I&E St. No. 2, p. 41.

equitable, reasonable, and arm's length terms for the City and PWSA, I&E recommended that the Cooperation Agreement be renegotiated to end the subsidization of rates, to reflect an accurate listing of service provided and paid for, and to revisit PWSA's subsidization of City water bills. Additionally, I&E recommended that PWSA request that the City provide it with detailed invoices to verify charges assessed for actual expenses and overhead charges, and that it should discontinue payment of City invoices for services unless those invoices provided valid details of charges for services that were actually provided.¹¹⁹ I&E noted that its recommendations were consistent with those made in the Auditor General's report.¹²⁰

In response, PWSA witnesses Lestitian and Presutti opined that PWSA could not comply with I&E's recommendation because any renegotiation of the terms of the Cooperation Agreement would require agreement and action by the City "a governmental entity, which is beyond the control of PWSA."¹²¹ Although Ms. Lestitian and Ms. Presutti indicated that negotiations were underway between PWSA and the City, and that four meetings had taken place between the parties in 2018, they also admitted that the meetings were expected to continue through 2018 and 2019 until an agreement could be reached.¹²² I&E also notes that the City has not elected to participate in PWSA's rate case; therefore, the record cannot be developed with respect to its position on this issue. Considering the City's crucial role in resolving this issue, the circumstances of this case,

¹¹⁹

Id.

¹²⁰ I&E St. No. 2, p. 41; I&E Ex. No. 3, Sch. 4, pp. 37-38.

¹²¹ PWSA St. No. 2R, pp. 37-38.

¹²² Id at 38.

and PWSA's position regarding its inability to unilaterally terminate the arrangement, I&E has assented to the Settlement term that memorializes the Joint Petitioners' agreement to investigate the Cooperation Agreement in PWSA's Compliance Plan proceeding.

For purposes of clarity, I&E has not withdrawn its recommendation regarding the Cooperation Agreement, but instead has simply permitted its investigation to extend into the realm of PWSA's Compliance Plan case. In I&E's view, investigation of the Cooperation Agreement in PWSA's Compliance Plan proceeding will not only allow PWSA and the City additional time to continue their negotiations, but it will provide an opportunity for the City to be made fully aware of the potential impact of its interests moving forward. Permitting PWSA and the City additional time to continue their negotiations, potentially avoiding and engaging in contentious, expensive and time-consuming litigation that it perceives could result from its unilateral termination of the Cooperation Agreement during a time when its focus must be devoted to improving its operations and coming into regulatory compliance.

Significantly, and as discussed more thoroughly below, it is I&E's position that provisions in the Cooperation Agreement for PWSA's payments to the City for anything other than services provided, provision of free service to the City, and subsidy payments for customers outside of PWSA's service territory should be rescinded. These provisions conflict with the Code, and negatively impact PWSA's ability to provide safe and effective service and to charge just and reasonable rates. It is also I&E's position that while the City has elected not to participate in this rate proceeding, it must clearly be put

on notice that its interests in the Cooperation Agreement, i.e., its receipt of free service, the subsidy payments it has compelled PWSA to finance, and any other obligations it imposes that affect PWSA's operations may be impacted in PWSA's Compliance Plan proceeding and in other Commission proceedings moving forward.

In order to ensure that the City is put on notice that its interests may be implicated in other PWSA proceedings before the Commission, as a condition of this Settlement, PWSA has agreed to certain terms designed to fully inform the City about the record of this proceeding and about the existence of several other proceedings that may implicate the City's interests. I&E notes that the following Settlement commitments¹²³ were essential terms necessary for its agreement to globally resolve this case:

- (a) PWSA agrees to formally notify the City of Pittsburgh of the record and outcome of this case, that the Cooperation Agreement is being reviewed by the PUC in the Compliance Filing proceeding, and that PWSA's LTIIP Filing is pending with the Commission. In order to comply with this term, PWSA agrees that it will do the following:
 - (1). serve the City with a copy of the full record of this proceeding (barring any confidential materials) as of the date of the close of the record and file a certificate of service with the Commission verifying that such service was made by no later than December 1, 2018;
 - (2). serve the City with a copy of the Recommended Decisions and Final Commission Orders issued in this matter within 10 days of their issuance and file a certificate of service with the Commission verifying that such service was made;

¹²³ Joint Petition, pp. 20-22, ¶¶(G)(1)(a)(i)(c)(1)-(G)(1)(a)(i)(c)(4).

- (3). serve the City with a copy of its Compliance Filing and its LTIIP filing by no later than January 4, 2019 and file a certificate of service with the Commission verifying that such service was made;
- (4). to the extent that PWSA revises, supplements, or re-files its Compliance Filing and/or LTIIP Filing, it agrees to serve the City with a copy of such filings at the same time that other parties are served and to include the City on the certificate of service that PWSA must file with the Commission.

I&E submits that through the above-referenced service commitments, PWSA will timely inform the City of the full record and outcome of this case, which I&E views as necessary to place the City on complete notice about the impact of the obligations it has imposed on PWSA and the potential for regulatory revisions of those obligations. In I&E's view, the public interest is served by ensuring that the City is fully aware of the regulatory obligations that now govern PWSA's operations so that it can make informed decisions as it moves forward with renegotiating its Cooperation Agreement with PWSA. Among these regulatory obligations is the mandate that PWSA must charge rates that are just, reasonable and accordance with the regulations or orders of the Commission.¹²⁴

I&E also notes that PWSA has committed to renegotiating its Cooperation Agreement with the City in good faith,¹²⁵ providing all parties to this case with quarterly updates on its status of such negotiations¹²⁶ and providing parties with a copy of any renegotiated Cooperation Agreement within 15 days of its execution.¹²⁷ I&E submits that ensuring that parties are informed about the status of the negotiations between the City

¹²⁴ 66 Pa. C.S. § 1301.

¹²⁵ Joint Petition, p. 21, ¶(G)(1)(a)(i)(b).

¹²⁶ Id. at ¶(G)(1)(a)(i)(a).

¹²⁷ Id. at 22, ¶(G)(1)(a)(i)(d).

and PWSA and promptly providing parties with a copy of any agreement reached is in the public interest for several reasons. First, in I&E's view, ensuring that it is aware of the status of negotiations is crucial because if a revised agreement that is consistent with PWSA's obligations under the Code cannot be achieved, I&E will need to evaluate whether and what action it must take to enforce the Code. Similarly, if an agreement to revise the Cooperation Agreement is reached, I&E must have the opportunity to promptly review the agreement in order to determine whether its terms are consistent with PWSA's obligations under the Code. I&E notes that nothing in the Settlement precludes it from bringing any action against PWSA and the City to enforce the Code if an agreement that is consistent with PWSA's obligations as a regulated utility cannot be reached.

Finally, I&E submits that by commemorating its commitment to keep parties informed of the status of its negotiations and any revised Cooperation Agreement with the City, PWSA is ultimately facilitating the Commission's review of the Cooperation Agreement. I&E submits that ensuring that the Commission is informed about the status of the current and, if applicable, any revised Cooperation Agreement is essential because of the Commission's power to vary, reform, and revise certain public utility contracts that it determines to be "unjust, unreasonable, inequitable, or otherwise contrary or adverse to the public interest and the general well-being of this Commonwealth."¹²⁸ I&E submits that pursuant to the notice provisions referenced above, both PWSA and the City will

¹²⁸ 66 Pa. C.S. § 508.

now have notice of the Commission's authority to revise the Cooperation Agreement subject to the provision of the Code.

I&E also notes that the Settlement includes two specific terms relative to I&E's intentions in PWSA's next base rate case. First, the Settlement recognizes that I&E may recommend the disallowance of any payments to the City claimed pursuant to the Cooperation Agreement or any renegotiated Cooperation Agreement for services unless those services are supported by invoices that have complete documentation to show valid details of the charges incurred including date of service, identification of the service provided, and itemization of the costs.¹²⁹ I&E submits that the public interest requires that PWSA substantiate the basis for its payments to the City so that the Commission can ensure that those expenses were warranted and prudently incurred. By way of this term, PWSA is on notice that I&E may recommend the disallowance of unsupported payments to the City in any of its future rate cases; therefore, it has the opportunity to avoid any future recommended disallowance by requiring that the City provide it with valid and detailed invoices for services provided before rendering payment.

Similarly, the Settlement recognizes that in PWSA's next base rate case, I&E reserves the right to impute revenues to PWSA for the provision of any free service to the City, including but not limited to free water, free wastewater, and unbilled public fire hydrant charges.¹³⁰ As the record indicates, I&E views the provision of free service as a

¹²⁹ Joint Petition, p. 22, ¶(G)(1)(a)(i)(e).

¹³⁰ Id. at ¶(G)(1)(a)(i)(f).

violation of the Code,¹³¹ and the provision of free service contributes to, among other things, unaffordable bills for PWSA's customers.¹³² I&E submits that placing PWSA on notice that it may impute revenues to PWSA for the free provision of City service is in the public interest so that this fact can inform PWSA's continued renegotiation of its Cooperation Agreement with the City.

While it is clear that the public interest is served by enforcing the Code now, I&E is also aware that PWSA's immediate compliance with the Code as it pertains to free City service may be at odds with the obligations it perceives to exist under its current Cooperation Agreement. For this reason, and in order to ensure that PWSA can meet its bond and other financial obligations, I&E has not imputed revenue in this case. However, I&E reserves the right to impute revenue on this basis in the future and providing notice of this fact now protects the public interest by providing PWSA with an opportunity to resolve this matter, but by also ensuring that ratepayers will be protected from unwarranted costs in the future if resolution is not achieved.

ii. Allegheny County Sanitary Authority ("ALCOSAN")

All wastewater collected and conveyed by the PWSA wastewater conveyance system is treated at ALCOSAN wastewater treatment facilities.¹³³ For purposes of billing, PWSA customers pay ALCOSAN for wastewater service in the form of a "pass-

¹³¹ I&E St. No. 3, p. 13; See 66 Pa. C.S. §§ 1301 and 1304.

¹³² See Transcript of Public Input Hearing, September 4, 2018, 7 p.m., Docket Nos. R-2018-3002645 & R-2018-3002647, pp. 108-109 (Testimony of PWSA customer Catherine Brosky expressing concern regarding the City's receipt of free PWSA service and expenses related to poor management).

¹³³ PWSA St. No. 1, p. 24.

through” charge on their PWSA bills.¹³⁴ This billing arrangement was initiated between the City and ALCOSAN in 1955.¹³⁵ As acknowledged by PWSA witness Lestitian, in conjunction with the ALCOSAN billing arrangement, PWSA currently carries bad debt expense for collections related to pass through charges by ALCOSAN. The pass through charges that ALCOSAN assesses to PWSA are based on billed volume, not collected revenue, and these charges costs PWSA customers approximately \$3-\$5 million per year.¹³⁶ In this case, PWSA claimed an ALCOSAN billing loss of \$3,699,738 in its FPFTY under “other operating expenses.”¹³⁷ As I&E witness D.C. Patel explained, while ALCOSAN charges and receives full payment from PWSA for wastewater treatment, this arrangement places all the risk of non-payment or partial payment by wastewater customers upon PWSA and causes unpredictability on the month-to-month billing impact for PWSA customers.¹³⁸

During this proceeding, although I&E opposed PWSA’s ALCOSAN billing arrangement and resulting billing loss, it did not recommend an adjustment to PWSA’s ALCOSAN claim in recognition of the practical challenges of disentangling PWSA from the arrangement, which PWSA perceives as a legal obligation.¹³⁹ With this in mind, I&E instead recommended that either before PWSA’s next base rate case filing, or September 30, 2019, whichever occurs first, PWSA should be required to end the pass-through

¹³⁴ Id. at 3.

¹³⁵ I&E Ex. No. 2, Sch. 9, p. 1.

¹³⁶ PWSA St. No. 2, p. 9.

¹³⁷ I&E St. No. 2, p. 26; PWSA filing, Volume 1, FR-1-2.

¹³⁸ I&E St. No. 2, p. 28.

¹³⁹ I&E St. No. 2, p. 31.

billing arrangement.¹⁴⁰ I&E noted that ending PWSA's current billing arrangement with ALCOSAN is also consistent with the Mayor's Blue Ribbon Report which recommended that the transfer of ALCOSAN billing and collections responsibility should be transferred to ALCOSAN.¹⁴¹ Aside from the Blue Ribbon Panel report, there was also public input testimony in this case to support I&E's position. More specifically, Tom Hoffman, a PWSA customer and Chairman of the Pennsylvania Chapter of the Sierra Club testified at one of the public input hearings in this case that ALCOSAN should be required to collect its own delinquent bills and that PWSA should renegotiate its arrangement with ALCOSAN.¹⁴²

In response to I&E's recommendation, PWSA witnesses Lestitian and Presutti indicated that PWSA could not unilaterally terminate its agreement with ALCOSAN by no later than September 30, 2019 because the termination would require agreement and action by both the City and ALCOSAN.¹⁴³ According to PWSA, implementing I&E's recommendation would not be appropriate because it would require action that is beyond PWSA's control.¹⁴⁴ I&E also notes that as neither the City nor ALCOSAN has elected to participate in PWSA's rate case, the record cannot be developed with respect to those parties' positions on this issue. Considering the unique circumstances of this case and PWSA's position regarding its inability to unilaterally terminate the arrangement, I&E

¹⁴⁰ Id. at 28.

¹⁴¹ Id. at 29; I&E Ex. No. 2, Sch. 10, p. 13.

¹⁴² I&E St. No. 2, p. 30; Transcript of Public Input Hearing, September 6, 2018, 7 p.m., Docket Nos. R-2018-3002645 & R-2018-3002647, pp. 237-238.

¹⁴³ PWSA St. No. 2-R, pp. 39-40.

¹⁴⁴ Id. at 40.

has assented to the Settlement term that memorializes Joint Petitioners' agreement to continue investigating this issue in PWSA's Compliance Plan proceeding.

For purposes of clarity, I&E has not withdrawn its position that PWSA's billing arrangement with ALCOSAN must be altered, but instead has simply agreed to permit its investigation of this issue to extend into the realm of PWSA's Compliance Plan case.

Specifically, the Settlement requires PWSA to agree to the following term:

PWSA will amend its Compliance Plan to reflect its commitment to evaluate the potential ways to address PWSA's contract with ALCOSAN, including renegotiation of the contract. PWSA also agrees to evaluate in the Compliance Plan the allocation of flows to ALCOSAN (and other municipalities) and whether it is feasible to measure stormwater separately from wastewater. In the Compliance Plan, PWSA will also propose a plan/method for developing separate cost of service studies for wastewater and stormwater for the development of stormwater rates.¹⁴⁵

I&E also notes that in the event that PWSA is successful in reaching a new agreement with ALCOSAN, it has committed to notifying all parties in this case about the new agreement and to providing those parties with a copy of the new agreement within 15 days of its execution.¹⁴⁶

I&E submits that PWSA's commitment to revise its Compliance Plan to indicate its commitment to evaluate its ALCOSAN contract, including the possibility of renegotiation of the ALCOSAN contract is in the public interest because both PWSA and its ratepayers are negatively impacted by the billing loss. In addition, while I&E would

¹⁴⁵ Joint Petition, pp. 22-23, ¶(G)(1)(b)(i)(a).

¹⁴⁶ Id. at 23, ¶(G)(1)(b)(ii).

prefer a resolution of this matter now, I&E is also cognizant of the practical realities and potential legal challenges that PWSA uniquely faces as it moves towards regulatory compliance. Therefore, I&E opines that permitting PWSA additional time to evaluate its options is in the public interest because it may save PWSA from engaging in contentious, expensive and time-consuming litigation that it perceives could result from its unilateral withdrawal of the ALCOSAN billing arrangement during a time when its focus must be devoted to improving its operations and coming into regulatory compliance.

I&E also notes that PWSA has committed to timely providing parties to this proceeding with a copy of any renegotiated contract with ALCOSAN so that parties are made aware of any changes to the arrangement and can evaluate them upon receipt of the document. I&E submits that it is in the public interest for parties to be quickly informed of the terms of any renegotiated contract to facilitate regulatory oversight and action, if warranted. I&E notes that nothing in the Settlement precludes it from bringing any action against PWSA and ALCOSAN to enforce the Code if an arrangement that is consistent with PWSA's obligations as a regulated utility cannot be reached.

Finally, I&E supports the Settlement term because it also recognizes PWSA's commitment to evaluate the allocation of flows to ALCOSAN as part of an analysis to gauge whether it is feasible to measure stormwater separately from wastewater.¹⁴⁷ This is important, as PWSA has also committed to proposing a plan or method for developing separate cost of service studies for wastewater and stormwater for the development of

¹⁴⁷ Id. at 22, ¶(G)(1)(b)(i)(a).

stormwater rates in is Compliance Plan, and the allocation of flows analysis will be important to that evaluation. Accordingly, I&E submits that this Settlement term is in the public interest because it is conducive to PWSA’s development and implementation of a separate tariff for stormwater service, which the Commission has mandated be part of any PWSA future wastewater rate filing.¹⁴⁸

iii. City of Pittsburgh Discount for Pennsylvania American-Water Company

As PWSA witness Lestitian indicated, another cost that is passed onto PWSA’s customers is a rate subsidy that PWSA pays directly to Pennsylvania American Water Company (“PAWC”).¹⁴⁹ The subsidy payment originated under the terms of a 1973 agreement between the City and PAWC’s predecessor, Western Pennsylvania Water Company. The agreement provided for a City of Pittsburgh Discount for certain PAWC water customers located within certain City Wards.¹⁵⁰ According to PAWC, the discount is the difference between the water bill calculated under the existing PAWC water rate schedule and a water bill calculated on PWSA’s current water rate schedule.¹⁵¹ PWSA’s filing projected the City of Pittsburgh Discount subsidy to be \$4.8 million in its FPFTY.¹⁵² The water subsidy is paid by PWSA to PAWC.¹⁵³ PWSA’s position is that it has a contractual obligation to make this subsidy payment.¹⁵⁴

¹⁴⁸ *Final Implementation Order*, p. 31.

¹⁴⁹ PWSA St. No. 2, p. 10.

¹⁵⁰ PAWC St. No. 1, pp. 2-3.

¹⁵¹ PAWC St. No. 1, p. 3.

¹⁵² PWSA St. No. 2, p. 10.

¹⁵³ PWSA St. No. 2-R, p. 33.

¹⁵⁴ I&E Ex. No. 2, Sch. 11, p. 1 of 5.

Similar to its position regarding ALCOSAN, although I&E opposed PWSA's subsidy payment to PAWC, it did not recommend an immediate adjustment to PWSA's claim. Instead, in recognition of the practical challenges and timing of disentangling PWSA from the subsidy arrangement, I&E recommended that PWSA work out a plan to reduce the water rate subsidy to PAWC in a phased manner so as to eliminate the rate subsidy completely by PWSA's next base rate case filing, or September 30, 2019, whichever occurs first.¹⁵⁵

As witness Patel indicated, I&E's recommendation was predicated upon several grounds, including the following: (1) given a recent PAWC rate increase and PWSA's pending rate increase, the water rate disparity will be narrowing and this warrants a subsidy reduction; (2) the water rate subsidy does not make economic or business sense given PWSA's current financial and operating conditions; (3) the subsidy has a significant bearing on the total requested revenue increase in this case; (4) if the City wants to continue the water rate subsidy, it should bear the cost; (5) elimination of the cost would result in financial relief to PWSA; and (6) the Pennsylvania Department of the Auditor General's Report and the Mayor's Blue Ribbon Report recommended the reduction or elimination of the subsidy.¹⁵⁶

In response to I&E's recommendation, PWSA witnesses Lestitian and Presutti indicated that PWSA planned to address the subsidy issue in its Compliance Plan because at present, PWSA's Cooperation Agreement with the City requires PWSA to pay for the

¹⁵⁵ I&E St. No. 2, pp. 33, 36.

¹⁵⁶ I&E St. No. 2, pp. 33-35; I&E Ex. No. 3, Sch. 4, pp. 33, 37; I&E Ex. No. 2, Sch. 10, p. 13.

subsidy.¹⁵⁷ Ms. Lestitian and Ms. Presutti also explained that while PWSA would discuss the subsidy payment during negotiations with the City regarding the Cooperation Agreement, any termination of the subsidy would require notice six months in advance of termination.¹⁵⁸ Additionally, PAWC indicted its concern that all parties, including impacted PAWC customers within the City, should be given reasonable and adequate notice that the City of Pittsburgh Discount is an issue in any proceeding in which their bills may be impacted.¹⁵⁹

In considering all parties' positions regarding the City of Pittsburgh Discount subsidy, I&E also notes that a key party to the subsidy arrangement, the City, has not elected to participate in PWSA's rate case. Accordingly, the record cannot be developed with respect to the City's position on this issue. In recognition of the unique circumstances of this case and PWSA's position regarding its inability to unilaterally terminate the arrangement, I&E has assented to the Settlement term that memorializes Joint Petitioners' agreement to continue investigating the subsidy payments in PWSA's Compliance Plan proceeding.

For purposes of clarity, I&E has not withdrawn its recommendation regarding the subsidy payments, but instead has simply permitted its investigation to extend into the realm of PWSA's Compliance Plan case. In I&E's view, permitting further investigation of this issue in the Compliance Plan is in the public interest for two reasons. First, permitting PWSA to have additional time to renegotiate any obligation it may have to

¹⁵⁷ PAWC St. No. 2-R, pp. 32-33.

¹⁵⁸ Id. at 33.

¹⁵⁹ PAWC St. No. 1, p. 5.

subsidize the City of Pittsburgh Discount may save PWSA from engaging in contentious, expensive and time-consuming litigation that it perceives could result from its unilateral termination of the subsidy payments during a time when its focus must be devoted to improving its operations and coming into regulatory compliance. Additionally, I&E recognizes PAWC's point that impacted PAWC customers should be notified regarding any proceeding that may implicate the termination of the subsidy, which may impact their bills.¹⁶⁰ I&E submits that the public interest requires that impacted customers be notified of potential changes to their rates; therefore, ensuring that those customers have an opportunity to receive such notification is of paramount importance.

However, as a condition of the agreement to investigate the City of Pittsburgh Discount in PWSA's Compliance Plan filing, I&E has explicitly placed PWSA, PAWC and other parties on notice of its intentions and reservation of rights regarding this issue. More specifically, in PWSA's next base rate case, I&E will recommend the termination of the City of Pittsburgh Discount for PAWC water customers.¹⁶¹ In the event that PAWC files its next base rate case before PWSA, then I&E may elect to address and oppose the City of Pittsburgh Discount in PAWC's rate case.¹⁶² Finally, I&E reserves its right to address the City of Pittsburgh Discount in any complaint proceeding that it may elect to initiate against PWSA, PAWC, or any other entity it deems necessary in order to ensure compliance with the Code. I&E avers that these terms are necessary in order to place parties on official notice of its position that the City of Pittsburgh Discount offends

¹⁶⁰ PAWC St. No. 1, p. 5.

¹⁶¹ Joint Petition, p. 22, ¶(G)(1)(c)(i)(a).

¹⁶² Id. at ¶(G)(1)(c)(ii).

the Code, burdens PWSA and its customers, and must end as soon as possible.

Additionally, I&E notes that nothing in the Settlement precludes it from bringing any action against PWSA, the City, and PAWC to enforce the Code if an arrangement that is consistent with PWSA's obligations as a regulated utility cannot be reached.

I&E submits that by placing parties on notice of its position in the Settlement, impacted parties should be prompted to make any arrangements necessary to terminate the subsidy and to notify impacted customers as quickly as possible. Although I&E notes that the City is not a party to this proceeding, by virtue of PWSA's aforementioned obligation to serve the City with the full record of this proceeding, it too will be on notice of I&E's position with respect to PWSA's subsidy payments for the City of Pittsburgh Discount and any other positions outlined in the record and in any resulting Commission Orders.

H. Long Term Infrastructure Improvement Plan and Other Compliance Plan Issues (Joint Petition, Section III, ¶¶(H)(1)-(H)(14))

i. Consolidation of Compliance Plan and LTIP¹⁶³

PWSA agrees that it will file a Petition with the Commission within 30 days of the signature date of this Settlement to consolidate its Compliance Plan and LTIP. PWSA also agrees that it has the burden of proof in the Compliance Plan proceeding to show that every element of its Compliance Plan, and the policies and procedures described, referenced, or referred to therein, are just and reasonable, consistent with all applicable laws, regulations, and policies, and in the public interest. PWSA further agrees it will not

¹⁶³ Id. at 24, ¶¶(H)(1)-(H)(3).

object in the Compliance Plan and/or LTIIP proceeding to the admission of any testimony, documents, or answers to interrogatories exchanged throughout the course of this proceeding.

I&E agrees that PWSA's Compliance Plan proceeding should be consolidated with PWSA's LTIIP Proceeding.¹⁶⁴ On October 25, 2018, I&E submitted Comments to the Commission on PWSA's proposed LTIIP, supporting this consolidation.¹⁶⁵ In Comments, I&E identified two issues implicated in both PWSA's LTIIP and its Compliance Plan: (1) the 5-year plan for PWSA to complete its Unmetered and Flat Rate Properties meter installation program and (2) PWSA's projected workforce. I&E notes these two issues may not be the only interrelated areas between the two filings. After further review of each filing, parties may identify other common issues that should be resolved on a unified basis. Given these common issues, separate proceedings will impose an undue burden on parties' and Commission's resources and risk inconsistent determinations.

It is also reasonable for PWSA to have the burden of proof in the Compliance Plan proceeding. PWSA's Petition for Approval of its Compliance Plan requests that the Commission approve the Compliance Plan; therefore, PWSA appropriately carries the burden of proof.¹⁶⁶ Additionally, I&E fully supports that any testimony, documents, and

¹⁶⁴ See M-2018-2640802 (PWSA Compliance Plan (water)), M-2018-2640803 (PWSA Compliance Plan (wastewater)), P-2018-3005037 (PWSA LTIIP (water)), and P-2018-3005039 (PWSA LTIIP (wastewater)).

¹⁶⁵ *Petition of the Pittsburgh Water and Sewer Authority for Approval of Its Long-Term Infrastructure Improvement Plan*, Docket Nos. P-2018-3005037 & P-2018-3005039, Comments of the Bureau of Investigation & Enforcement, pp. 18-21 (October 25, 2018).

¹⁶⁶ See 66 Pa. Code § 332(a).

answers to interrogatories exchanged through the course of this proceeding should be available in the Compliance Plan and/or LTIP proceeding without objection. This base rate proceeding addressed numerous important issues, many of which will be further addressed in the Compliance Plan proceeding. To conserve resources and avoid unnecessary duplication of efforts, materials produced in this proceeding should be available in the Compliance Plan and LTIP proceedings. For these reasons, I&E supports these Settlement terms related to consolidation of the Compliance Plan and LTIP.

ii. Revision of Compliance Plan¹⁶⁷

PWSA agrees it will revise its Compliance Plan and LTIP within 30 days of the Commission's entry of a final order in this proceeding or submission of direct testimony in the Compliance Plan/LTIP proceeding, whichever is sooner, in compliance with the terms of this Settlement. PWSA agrees to provide supplemental information about its internal policies, procedures, and processes, including at a minimum:

- a. A description of PWSA's requirements for residential service;
- b. PWSA's collections policies;
- c. Service termination procedures for each type of customer class;
- d. Policies and practices with respect to Protection From Abuse Orders or other court orders;
- e. Call Center Metrics;

¹⁶⁷ Joint Petition, p. 25, ¶¶H(4)(a)-H(4)(k).

- f. Data points regarding Low Income Assistance Programs, and a description of the policies and practices governing application, enrollment, eligibility, and benefits for each program;
- g. Line extension fee structure;
- h. Future plans regarding the Highland No. 1 Reservoir and the Highland Membrane Filtration Plant (“HMFP”);
- i. PWSA further agrees that, apart from investigation in the Compliance Plan/LTIIP proceeding, and until the filing of its next base rate case, PWSA will provide a detailed cost breakdown, including:
 - (a) Actual and projected operating and capital costs to date incurred and estimated to be incurred as a result of the October 25, 2017 Department of Environmental Protection Administrative Order with regard to the HMFP; and
 - (b) Actual and projected operating and capital costs on a calendar year basis incurred and estimated to be incurred to operate the HMFP.
 - (c) The cost breakdowns detailed at Paragraphs (a) & (b) above will be provided to all Parties 1) starting within 30 days of the signature date of this Settlement, and on a quarter annual basis thereafter; and 2) upon completion of repairs of the HMFP.
 - (d) PWSA further agrees it will provide with its next base rate filing a cost/benefit analysis comparing continuing to operate the HMFP instead of covering and placing a physical barrier around Highland No. 1 Reservoir. Such an analysis shall include a detailed cost comparison of operating and capital costs, an evaluation of operating, costs and other consequences if the HMFP is no longer operated, as well as any other relevant legal, technical and policy analyses. PWSA’s agreement to provide this information shall not be construed as PWSA’s endorsement of a cost comparison analysis. All Parties agree a cost/benefit analysis will evaluate all relevant legal, technical and policy considerations, as well as a cost comparison.
- j. Public fire hydrant service;
- k. Reduction of uncollectibles.

I&E submitted testimony on four of the above-listed issues, including the line extension fee structure,¹⁶⁸ Highland Membrane Filtration Plant (“HMFP”), public fire hydrant service,¹⁶⁹ and reduction of uncollectibles.¹⁷⁰ For issues where I&E did not submit testimony, I&E was involved in their review and discussion during Settlement negotiations and supports these terms as they were necessary for a collective resolution of this case.

Highland Membrane Filtration Plant

The HMFP filters water from Highland Park No. 1 Reservoir, an uncovered distribution system reservoir in PWSA’s distribution system. On October 25, 2017, the Pennsylvania Department of Environmental Protection (“DEP”) issued an Administrative Order taking the HMFP out of service.¹⁷¹ The DEP had discovered that the HMFP disinfection process failed to achieve at least 90% inactivation of Giardia cysts and 99.9% inactivation of viruses.

The Administrative Order stated PWSA could resume operation of HMFP if it either provided repairs and upgrades to the HMFP, or if it installed a cover on the Highland No. 1 Reservoir and provided adequate security with a physical barrier. PWSA elected to implement the repair and upgrade option.

I&E recommended PWSA provide an explanation why it chose this option, including a comparison of the total cost and annual debt cost of completing the associated

¹⁶⁸ Settlement terms regarding PWSA’s line extension fee structure are addressed at Section II.H.v below.

¹⁶⁹ Settlement terms regarding public fire hydrant service are addressed at Section II.B.iv above.

¹⁷⁰ Settlement terms regarding reduction of uncollectibles are addressed at Section II.H.viii below.

¹⁷¹ I&E Ex. No. 3, Sch. 1.

capital projects and an estimation of the annual cost of operating and maintaining the HMFP.¹⁷² I&E made this recommendation because of a concern that the cost to repair and upgrade the HMFP may far exceed the option to cover and secure the Highland No. 1 Reservoir. PWSA responded that the DEP approved plan is too far along to be reversed.¹⁷³ Additionally, PWSA stated this decision should not be made using cost comparison only, but includes legal, technical and policy bases as well. However, PWSA did not provide a cost comparison.

Although I&E acknowledges the additional analyses, a cost comparison should be a factor to consider when evaluating PWSA's options regarding the HMFP. Accordingly, the Settlement requires PWSA to include with its next base rate filing a cost/benefit analysis comparing continuing to operate the HMFP instead of covering and placing a physical barrier around Highland No. 1 Reservoir. This analysis must include a detailed cost comparison of operating and capital costs, an evaluation of operating, costs and other consequences if the HMFP is no longer operated, as well as any other relevant legal, technical and policy analyses. The Joint Petitioners acknowledged that PWSA's agreement to provide this information shall not be construed as PWSA's endorsement of a cost comparison analysis. All Joint Petitioners also agreed that a cost/benefit analysis will evaluate all relevant legal, technical and policy considerations, as well as a cost comparison.

¹⁷² I&E St. No. 3, p. 5.

¹⁷³ PWSA St. No. 1-R, p. 4.

To ensure continuing oversight of the HMFP while future plans regarding the Highland Park No. 1 Reservoir are discussed in the Compliance Plan proceeding, the Settlement also provides PWSA will provide the following detailed cost breakdowns:

- Actual and projected operating and capital costs to date incurred and estimated to be incurred as a result of the October 25, 2017 Department of Environmental Protection Administrative Order with regard to the HMFP; and
- Actual and projected operating and capital costs on a calendar year basis incurred and estimated to be incurred to operate the HMFP.

These cost breakdowns will be provided to all parties starting within 30 days of the signature date of this Settlement, and on a quarter annual basis thereafter, and also upon completion of repairs of the HMFP.

I&E supports this Settlement term because it will provide the cost comparison I&E seeks. Additionally, it will allow PWSA to provide a comprehensive analysis of this issue no later than its next base rate filing. The future plans for Highland Park Reservoir No. 1 and the HMFP will continue to be discussed during the Compliance Plan proceeding, and I&E believes these Settlement terms provide the groundwork for long-term resolution of this issue to ensure ratepayer funds are prudently spent.

iii. Public Fire Hydrant Service¹⁷⁴

PWSA agrees that, in the Compliance Plan proceeding, it will consider the proposal to assess the City a separate rate for public fire hydrant service and the

¹⁷⁴ Joint Petition, p. 26, ¶(H)(5).

timeframe for doing so including, but not limited to, in its next base rate case. For the same reasons discussed at Section II.B.iv above, I&E supports this Settlement term.

iv. Flat Rate for Unmetered/Unbilled Service¹⁷⁵

In the Compliance Plan proceeding, PWSA agrees to consider the proposal for a flat rate for both water and wastewater for all unmetered and unbilled municipal and government properties or buildings served by PWSA, for inclusion in the next base rate case. As discussed in Section F above, pursuant to the Cooperation Agreement, PWSA does not bill the City for water usage and does not meter all City-owned properties.¹⁷⁶ PWSA estimates the number of such unmetered properties to be between 200 and 400 locations.¹⁷⁷

The Auditor General's Report indicated that, based on 2017 rates, the 600 million gallons of free water provided annually pursuant to the 1995 Cooperation Agreement represents approximately \$6.84 million that PWSA does not collect.¹⁷⁸ However, because PWSA does not have a complete list of all City-owned properties and many City-owned properties are not metered, it is unknown the actual amount of free water the City receives.¹⁷⁹ The Auditor General's Report cited a PWSA senior manager's belief that the City's usage may be close to one billion gallons of water annually.¹⁸⁰ If the City uses closer to 1 billion gallons in free water, the audit calculated PWSA is losing a

¹⁷⁵ Id. at ¶(H)(6).

¹⁷⁶ I&E St. No. 3, p. 9.

¹⁷⁷ I&E Ex. No. 3, Sch. 11.

¹⁷⁸ Id. at Sch. 4, p. 31.

¹⁷⁹ I&E St. No. 3, p. 10.

¹⁸⁰ I&E Ex. No. 3, Sch. 4, p. 32.

further \$4.56 million in revenue. Additionally, because not all of the City's buildings are metered and PWSA does not currently bill the City for water service, it is likely that PWSA also does not bill the City for wastewater service.¹⁸¹

I&E recommended that PWSA be required to meter and bill all City-owned properties, but that until such time that PWSA is able to meter all City properties, PWSA propose a flat rate for each unmetered City property to be included in PWSA's next base rate case.¹⁸² Commission regulations permit flat rate service pending implementation of a reasonable metering program or under special circumstances as may be permitted by the Commission for good cause.¹⁸³ I&E also recommended that the flat rate should be consistent with the average bill of a metered customer of whichever customer class in which the property would be reasonably included.

PWSA responded that its Compliance Plan would include a plan to meter and bill all of its customers, including City-owned properties.¹⁸⁴ PWSA indicated it would follow a five-year timeline to meter and bill all of its customers.¹⁸⁵ Until City properties are metered and the Cooperation Agreement is renegotiated, the costs that would otherwise be recovered from the City must be recovered from the other PWSA customers.¹⁸⁶

If the City uses 1 billion gallons of water each year, PWSA could forego as much as \$57 million in revenue if it follows a five-year timeline to meter and bill all customers

¹⁸¹ I&E St. No. 3, p. 11.

¹⁸² Id. at 12.

¹⁸³ 52 Pa. Code § 65.7.

¹⁸⁴ PWSA St. No. 2-R, p. 41.

¹⁸⁵ PWSA St. No. 1-R, p. 9.

¹⁸⁶ PWSA St. No. 5-R, p. 3.

and does not implement a flat rate in the short-term. I&E again recognizes PWSA's position that the Cooperation Agreement obligates it to provide the City 600 million gallons of free water annually. However, again, PWSA must charge the City water and wastewater rates adequate to recover its cost of service and otherwise comply with the Code. But, the issue of metering and billing the City is in a unique position where renegotiation of the Cooperation Agreement is ongoing and a Compliance Plan proceeding is pending where this issue will be discussed. For the same reasons discussed above regarding public fire hydrant service and renegotiation of PWSA's Cooperation Agreement with the City generally, I&E supports this Settlement term, where the proposal for a flat rate for water and wastewater service for the City will be further addressed in the Compliance Plan proceeding.

v. Infrastructure/Operations/Lead Issues in Compliance Plan/LTIIP Proceedings¹⁸⁷

PWSA agreed that the following issues would be investigated in its Compliance Plan or LTIIP proceedings:

- a. Measuring and remediating PWSA unaccounted for/non-revenue water.
- b. Records for estimated flows used for blow-offs, street sweeping, flushing, firefighting, and main breaks, etc.
- c. Conducting leak surveys.
- d. Compliance with 52 Pa. Code Chapter 65 including: (i) addressing high pressure; (ii) exercising all isolation valves; and (iii) schedule for flushing the system.

¹⁸⁷ Joint Petition, p. 26-28, ¶¶(H)(7)(a)-(H)(7)(k).

- e. Metering, including: (i) a plan to deal with “Party Line” service; (ii) metering and billing of all City water/wastewater locations including, but not limited to public fire hydrants, wastewater, and water; and (iii) a plan to track age of customer meters and to test and/or replace meters over 20 years old.
- f. Development of operating metrics for infrastructure improvement projects.
- g. Cost effectiveness of dollars spent for infrastructure improvement. The plan developed to track cost effectiveness will also include a plan for cost reporting relative to projections so that parties and the Commission can evaluate the accuracy of those projections in future filings.
- h. A Risk Assessment Model for identifying priority of water and sewer projects.
- i. A plan to adopt and track the 20 operating metrics identified in I&E St. No. 4, p. 5.
- j. An evaluation of whether the Pennsylvania Public Utility Code and the Commission’s regulations preempt the Municipality Authorities Act as it relates to costs of line extensions and meters as discussed in PWSA St. 4, pp. 14-15, and as it relates to any other identified areas of conflict.
- k. For lead service line replacement that take place after 2019, an evaluation of the issues described in Paragraphs III.C.a through III.C.1.d of the Settlement.

I&E submitted testimony on all of the above-listed issues, except b, d, e.iii and k.

Unaccounted-for-water and Leak Surveys

Unaccounted-for-water (“UFW”) is the difference between the total system output and the metered quantity of water billed plus an estimate for the amount used for fire service, testing, main flushing, and unmetered company use.¹⁸⁸ For 2016 and 2017, UFW levels were 61% and 65%, respectively.¹⁸⁹ A high level of UFW can increase customer rates. The Commission’s policy statement regarding UFW states that levels of UFW should be kept within “reasonable amounts” and that levels above 20% have been considered to be excessive.¹⁹⁰

In addition to UFW, I&E expressed additional concern that PWSA does not have an active program for leak surveying.¹⁹¹ Without a leak survey program, critical performance metrics cannot be established or monitored and it is more difficult to identify the highest risk pipe and water loss in the distribution system. An active and accurate leak survey program will reduce the water treatment costs to the ratepayers by reducing the unnecessary costs that they pay to treat water that is lost through leaks.

In a typical base rate case, I&E would make an adjustment for excessive UFW. I&E does not believe it would be reasonable to recommend an adjustment to PWSA’s excessive UFW in this proceeding. PWSA only entered the Commission’s jurisdiction this year and was not previously subject to UFW regulations. Accordingly, it is reasonable to allow PWSA some time to comply with UFW regulations, especially

¹⁸⁸ I&E St. No. 3, p. 20.

¹⁸⁹ I&E Ex. No. 3, Sch. 9.

¹⁹⁰ 52 Pa. Code § 65.20.

¹⁹¹ I&E St. No. 4, p. 7.

considering PWSA is planning on exponentially increasing capital spending on infrastructure in coming years. PWSA should be allowed to demonstrate mitigation of UFW through infrastructure improvement. For these reasons, I&E supports these Settlement terms and expects the Compliance Plan will address UFW, including a detailed plan and timeline for conducting leak surveys and bringing PWSA's UFW within reasonable limits as directed by the Commission.

Metering

As discussed multiple times previously,¹⁹² I&E supports billing all City public fire hydrants, wastewater, and water locations. In addition to unmetered City locations, PWSA serves flat rate customers from party lines.¹⁹³ A party line is a service line that connects multiple customers but is attached to only one meter. I&E expressed several concerns with the use of party lines, including that party lines prevent customers from being accurately billed for usage and prevent normal termination procedures for non-paying customers. At a public input hearing in September 2018, a PWSA customer who owned a property served by a party line expressed concerns regarding the cost and apparent lack of options to install a water meter.¹⁹⁴

I&E recommended PWSA should terminate party lines and meter all of its customers.¹⁹⁵ Commission regulations mandate that water utilities furnish metered

¹⁹² See Sections II.B.iv, II.G.i., II.H.iv.

¹⁹³ I&E St. No. 3, p. 6.

¹⁹⁴ Transcript of Public Input Hearing, September 4, 2018, 7 p.m., Docket Nos. R-2018-3002645 & R-2018-3002647, pp. 98-100 (Testimony of PWSA customer Michael Fifth).

¹⁹⁵ I&E St. No. 3, p. 8.

service, which PWSA is not doing for customers served from party lines.¹⁹⁶ The regulations permit continuation of flat rate service pending implementation of a reasonable metering program or under special circumstances as may be permitted by the Commission for good cause. I&E does not oppose PWSA's continuation of flat rate service to party line customers in this proceeding but expects a reasonable metering program for these customers will be addressed in the Compliance Plan proceeding. Accordingly, I&E supports these Settlement terms as a reasonable resolution of the parties' positions in this rate case.

Tracking and Operating Metrics

I&E recommended PWSA provide the Commission the following operating metrics:¹⁹⁷

- i. pipeline materials;
- ii. pipeline age;
- iii. leak history per mile;
- iv. pipeline pressures;
- v. installation year;
- vi. pipeline diameter;
- vii. pipeline mileage (distribution and services);
- viii. addition/retirements of plant;
- ix. materials and supplies;
- x. leak repair;

¹⁹⁶ 52 Pa. Code § 65.7.

¹⁹⁷ I&E St. No. 4, p. 5.

- xi. pipeline damages from excavation;
- xii. plant in service;
- xiii. corrosion protection programs;
- xiv. lead levels;
- xv. miles of lead pipelines;
- xvi. cost of lead pipeline replacement (PWSA work crews and contractors);
- xvii. sanitary flow reduction;
- xviii. miles of combined sewer separation;
- xix. lost and unaccounted for water; and
- xx. any other pipeline metrics that would benefit the operator and the regulator in evaluating the operational viability and safety of the water and sewer systems.

I&E also recommended PWSA provide information to mitigate pipeline replacement costs and develop a Risk Assessment Model to help determine pipelines that pose the highest risk to the health and safety of the public and show which pipelines threaten reliable service to customers. Reporting the above metrics, maintaining accurate records and supporting data, and developing a Risk Assessment Model are critical to ensuring that pipeline replacement is cost-effective and makes the best use of ratepayers' funds. Accordingly, I&E supports investigating the referenced tracking and operating metrics in PWSA's LTIP/Compliance Plan proceeding.

Municipality Authorities Act: Line Extensions and Meters

Currently, PWSA charges property owners fees for line extensions and meters to comply with the Municipality Authorities Act (“MAA”).¹⁹⁸ PWSA acknowledges that the requirements under the MAA for these fees conflict with the Commission’s regulations. However, PWSA did not propose any revisions to these existing fees, stating:

(1) [T]he fees are collected in compliance with the provisions of the MAA; (2) the MAA limits PWSA's fee authority to those fees in compliance with its provisions; (3) Section 65.7(b) of the Commission's regulations specifically recognize the ability of the Commission to authorize a public utility to receive payment from a meter; and (4) PWSA has not had the opportunity to evaluate how revising its fee structure on this issue would impact operations and revenue structure.

I&E did not recommend that any adjustment to these fees in the current proceeding.¹⁹⁹ However, I&E did recommend that PWSA present an analysis on how revising its fee structure on this issue to comply with the Commission’s regulations would impact operations and revenue structure. Additionally, I&E noted the question of whether the Code supersedes the MAA is a legal issue that will be addressed by counsel once further information becomes available through PWSA’s Compliance Plan. Accordingly, I&E supports the Settlement term to evaluate whether the Code and the Commission’s regulations preempt the MAA as it relates to costs of line extensions and meters in the Compliance Plan or LTIP proceedings.

¹⁹⁸ PWSA St. No. 3, p. 14-15.

¹⁹⁹ I&E St. No. 3, p.16.

Other Issues

For issues where I&E did not submit testimony, I&E was involved in their review and discussion during Settlement negotiations. Accordingly, I&E supports the Settlement terms as they were necessary for a collective resolution of this case.

vi. Customer Service Issues in Compliance Plan/LTIIP Proceeding²⁰⁰

PWSA agrees that various customer service issues will be further investigated in the Compliance Plan proceeding. Additionally, PWSA agrees to provide an explanation of PWSA's current policies and practices related to these issues in its direct testimony filed in the Compliance Plan proceeding. I&E did not provide testimony regarding these customer service issues. However, I&E was involved in review and discussion of these issues in settlement negotiations. Accordingly, I&E supports this Settlement term because it was necessary for a collective resolution of this case.

vii. Line Extension Fee Structure²⁰¹

As discussed in detail at Section II.H.v above, I&E supports further evaluation of whether the Code and the Commission's regulations preempt the MAA as it relates to costs of line extensions and meters in the Compliance Plan or LTIIP proceedings. Accordingly, I&E supports the Settlement term that PWSA's present line extension fee structure will be investigated in the Compliance Filing proceeding.

²⁰⁰ Joint Petition, p. 28, ¶¶(H)(8)(a)-(H)(8)(g).

²⁰¹ Id. at ¶(H)(9).

viii. Third Party Collection Activities²⁰²

Consistent with Paragraph III.G.1.d of the Settlement, the Compliance Plan proceeding will investigate whether PWSA's third party collection activities conform with the Code and the Commission's regulations applicable to residential customers. PWSA also agrees to address the cost-effective manner of collecting overdue payments as part of the Compliance Plan.

I&E expressed concern with significant loss of revenue due to the high percentage of uncollectibles projected by PWSA.²⁰³ The projected loss for the FPFTY is \$8,584,827, or 31.30% of the total requested revenue increase of \$27,427,344. This loss impacts the overall financial health of PWSA and I&E recommended PWSA provide a detailed report with data about implementation of collection measures with its results in its next base rate case filing. I&E therefore supports the Settlement term to address the cost-effective manner of PWSA's third party collection activities.

ix. Contractual Arrangements²⁰⁴

PWSA agrees that the "contractual" issues in Section G above will be investigated in the Compliance Plan proceeding. As discussed in detail at Section G above, I&E supports the Settlement terms regarding contractual issues.

²⁰² Id. at 29, ¶(H)(10).

²⁰³ I&E St. No. 2, p. 25.

²⁰⁴ Joint Petition, p. 29, ¶(H)(11)

x. Low-Income Customer Issues²⁰⁵

PWSA agrees that revisions to its existing universal service programs, including its Bill Discount Program and Hardship Cash Assistance Program, will be investigated in the Compliance Plan proceeding. As discussed in Section F above, I&E believes PWSA's low-income initiatives require further development, including input of an Advisory Committee, which will be established from this Settlement. I&E therefore supports this Settlement term and believes it is appropriate that revisions to PWSA's existing universal service programs be investigated in the Compliance Plan proceeding.

xi. OCA Reporting Requirements²⁰⁶

PWSA agrees to consider future data collection and reporting requirements per OCA Statement 4 at pages 23-24, during the Compliance Plan proceeding. Although I&E did not submit any testimony regarding this issue, I&E was involved in its discussion during settlement negotiations. I&E therefore supports this term as it was necessary for a collective resolution of this case.

xii. Reservation of Rights²⁰⁷

By agreeing that any issue in Paragraphs III.H.4 through III.H.13 of the Settlement will be investigated in the Compliance Plan, no party is waiving the right to raising additional issues therein or withdrawing any of the issues presently identified in the Compliance Plan; nor does it supersede the right of any party to raise any relevant issue in the Compliance Plan proceeding. The parties to the Settlement reserve the right to

²⁰⁵ Id. at ¶(H)(12).

²⁰⁶ Id. at ¶(H)(13).

²⁰⁷ Id. at ¶(H)(14).

contest PWSA's proposals, information or plans in the context of the Compliance Plan proceeding.

I&E supports this Settlement term because issues to be included in the Compliance Plan need to be thoroughly vetted and should not be prejudiced by any determination in this rate case. Additionally, it is necessary that all relevant issues be addressed in the Compliance Plan proceeding, and not be constrained to issues to be included in the Compliance Plan proceeding per the Settlement. Preserving the integrity of the Compliance Plan proceeding is critical to ensuring that PWSA complies with all of its obligations under the Code, the Commission's regulations, the Commission's orders, and other applicable rules as soon as possible.

III. CONCLUSION

15. I&E represents that all issues raised in testimony have been satisfactorily resolved through discovery and discussions with PWSA or are incorporated or considered in the resolution proposed in the Settlement. The very nature of a settlement requires compromise on the part of all parties. This Settlement exemplifies the benefits to be derived from a negotiated approach to resolving what can appear at first blush to be irreconcilable regulatory differences. The Joint Petitioners have carefully discussed and negotiated all issues raised in this proceeding, and specifically those addressed and resolved in this Settlement. Further line-by-line identification of the ultimate resolution of the disputed issues beyond those presented in the Settlement is not necessary as I&E represents that the Settlement maintains the proper balance of the interests of all parties.

16. Based upon I&E's analysis of the filing, acceptance of this proposed Settlement is in the public interest. Resolution of this case by settlement rather than litigation will avoid the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense.

17. I&E further submits that the acceptance of this Settlement will negate the need for evidentiary hearings, which would compel the extensive devotion of time and expense for the preparation, presentation, and cross-examination of multiple witnesses, the preparation of briefs, the preparation of exceptions, and the potential of filed appeals, all yielding substantial savings for all parties, and ultimately all customers, as well as certainty on the regulatory disposition of issues.

18. The Settlement is conditioned upon the Commission's approval of all terms without modification. Should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement in any way, it may be withdrawn by PWSA, I&E, or any other Joint Petitioner.

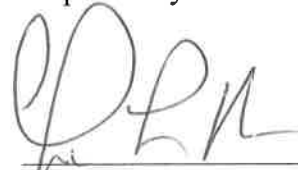
19. I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by any other parties to the Settlement.

20. If the ALJs recommend that the Commission adopt the Settlement as proposed, I&E agrees to waive the filing of Exceptions. However, I&E does not waive its right to file Exceptions with respect to any modifications to the terms and conditions of the Settlement or any additional matters that may be proposed by the ALJs in their

Recommended Decision. I&E also does not waive the right to file Reply Exceptions in the event any party files Exceptions.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that it supports the Joint Petition for Settlement as being in the public interest and respectfully requests that Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Conrad A. Johnson recommend, and the Commission approve, the terms and conditions contained in the Settlement without modification.

Respectfully submitted,



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Prosecutor
Attorney I.D. #313863

John M. Coogan
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Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
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Dated: December 7, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2018-3002645
	:	R-2018-3002647
Pittsburgh Water and Sewer Authority	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Statement in Support of Settlement** on December 7, 2018, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

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