



December 11, 2018

VIA E-FILE

Jonathan P. Nase

Direct Phone 717-773-4191
Direct Fax 215-372-2340
jnase@cozen.com

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

**Re: Pennsylvania Public Utility Commission v. Hidden Valley Utility Services, L.P.
(Wastewater and Water); Docket Nos. R-2018-3001307 and R-2018-3001306**

Main Brief of Hidden Valley Utility Services, L.P.

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the Main Brief of Hidden Valley Utility Services, L.P., in the above-referenced proceeding. Copies of the brief are being served on the Presiding Officers, Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Katrina L. Dunderdale, and on all parties, as indicated on the enclosed Certificate of Service.

Thank you for your attention to this filing. Should you have any questions or concerns, please contact me.

Sincerely,

COZEN O'CONNOR

By: Jonathan P. Nase
Counsel for *Hidden Valley Utility Services, L.P.*

JPN
Enclosure

cc: Honorable Mark A. Hoyer (including MS Word version)
Honorable Katrina L. Dunderdale (including MS Word version)
Per Certificate of Service
James M. Kettler

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, *et al.* :
 :
 :
 v. : Docket Nos. R-2018-3001306,
 : R-2018-3001307 *et al.*
 :
 Hidden Valley Utility Services, L.P. :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Main Brief of Hidden Valley Utility Services, L.P.**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL:

Allison Kaster, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265
E-mail: akaster@pa.gov
Counsel for the *Bureau of Investigation and Enforcement*

Christine Maloni Hoover, Esquire
Lauren Castor, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
E-mail: CHoover@paoca.org
LCastor@paoca.org
Counsel for *Office of Consumer Advocate*

William H. Stewart, Esq.
Vuono & Gray, LLC
310 Grant Street
Suite 2310 Grant Building
Pittsburgh, PA 15219
E-mail: wstewart@vuonogray.com
Counsel for *Hidden Valley Foundation Inc.*

Stacy Sherwood
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
E-mail: sherwood@exeterassociates.com
Consultant for *Office of Consumer Advocate*

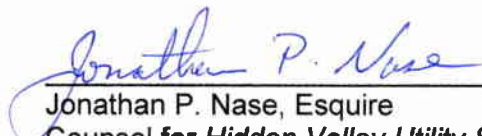
Aaron Rothschild
Rothschild Financial Consulting
15 Lake Road
Ridgefield, CT 06877
E-mail: aaron@rothschildfinancial.com
Consultant for *Office of Consumer Advocate*

Jerome D. Mierzwa
Exeter Associates
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
E-mail: jmierzwa@exeterassociates.com
Consultant for *Office of Consumer Advocate*

Robert Kollar
1374 Langport Drive
Pittsburgh, PA 15241
E-mail: bob@kkacpas.com

Terry L. Fought
780 Cardinal Drive
Harrisburg, PA 17111
E-mail: tfengr@aol.com
Consultant for *Office of Consumer Advocate*

December 11, 2018


Jonathan P. Nase, Esquire
Counsel for *Hidden Valley Utility Services, L.P.*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DEPUTY CHIEF ADMINISTRATIVE LAW
JUDGE MARK A. HOYER
AND
ADMINISTRATIVE LAW JUDGE
KATRINA L. DUNDERDALE**

Pennsylvania Public Utility Commission :
: :
v. : Docket No. R-2018-3001307
: :
Hidden Valley Utility Services, L.P. – :
Wastewater :

And

Pennsylvania Public Utility Commission :
: :
v. : Docket No. R-2018-3001306
: :
Hidden Valley Utility Services, L.P. – Water :

**MAIN BRIEF OF
HIDDEN VALLEY UTILITY SERVICES, L.P.**

Jonathan P. Nase, Esquire (PA ID No. 44003)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 773-4191
E-mail: jnase@cozen.com

Dated: December 11, 2018

TABLE OF CONTENTS

I.	INTRODUCTION AND STATEMENT OF THE CASE.....	1
II.	BACKGROUND AND PROCEDURAL HISTORY.....	4
A.	BACKGROUND.....	4
1.	The Company.....	4
2.	The Water System.....	5
3.	The Wastewater System.....	6
4.	The <i>McCloskey</i> Case.....	7
B.	PROCEDURAL HISTORY.....	11
III.	LEGAL STANDARD.....	14
IV.	SUMMARY OF ARGUMENT.....	16
V.	QUALITY OF SERVICE.....	21
A.	A FURTHER REDUCTION OF THE COMPANY’S RATE RELIEF IS NOT WARRANTED BY THE <i>MCCLOSKEY</i> DECISIONS.....	22
1.	<i>McCloskey</i> Gave the Company a Plan for Improvements.....	23
2.	A Modest Rate Increase Will Enable the Company to Comply with <i>McCloskey</i>	26
B.	A FURTHER REDUCTION OF THE COMPANY’S WASTEWATER RATE INCREASE IS NOT WARRANTED BY THE RECORD.....	30
C.	A FURTHER REDUCTION OF THE COMPANY’S RATE RELIEF IS NOT WARRANTED BY PRIOR COMMISSION AND COURT DECISIONS.....	33
1.	A Complete Denial of Rate Relief Would Destroy the Company.....	33
2.	The Modest Rate Increase Proposed in the Settlement Would Ensure that the Company Can Cover the Costs of Providing Service.....	36
3.	A Modest Increase in Rates is Consistent with the Commission’s Policy Favoring Gradualism.....	38
4.	A Complete Denial of Rate Relief Would Deny Hidden Valley its Constitutional Rights.....	41

VI.	INDEPENDENT AUDIT	45
VII.	NON-UNANIMOUS SETTLEMENT PETITION AND JOINT STIPULATION	46
	A. REVENUE REQUIREMENT.....	46
	B. RATE STRUCTURE	49
	C. ANNUAL REPORTS.....	50
VIII.	CONCLUSION.....	51
	APPENDIX A. PROPOSED FINDINGS OF FACT	A-1
	APPENDIX B. PROPOSED CONCLUSIONS OF LAW	B-1
	APPENDIX C. PROPOSED ORDERING PARAGRAPHS	C-1
	APPENDIX D. JOINT PETITION FOR APPROVAL OF NON-UNANIMOUS SETTLEMENT.....	D-1
	APPENDIX E. SETTLEMENT TABLES	E-1

TABLE OF AUTHORITIES

	Page(s)
United States Constitution	
U.S. Const., Am. 14	42, 43
 Federal Court Decisions	
<i>Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia</i> , 262 U.S. 679 (1923).....	41, B-3
<i>Federal Power Commission v. Hope Natural Gas Co.</i> , 320 U.S. 591	41, 42, 43, 44, B-2
 Pennsylvania Statutes	
66 Pa. C.S. § 315(a)	14, 15, B-1
66 Pa. C.S. § 523.....	17, 20, 21, 33, B-2
66 Pa. C.S. § 526.....	16, 17, 20, 21, 33, B-2
66 Pa. C.S. § 1301.....	14, B-1
66 Pa. C.S. § 1308(d).....	14, B-1
66 Pa. C.S. § 1311(c).....	11, A-4
66 Pa. C.S. § 1501.....	<i>passim</i>
71 P.S. § 309-2.....	A-1
 Pennsylvania Regulations and Statements of Policy	
52 Pa. Code § 5.407	14
52 Pa. Code § 69.1201	25

Pennsylvania Court Decisions

Keystone Water Company v. Pa. Pub. Util. Comm’n,
477 Pa. 594 (1978).....42

Lower Frederick Twp. v. Pa. Pub. Util. Comm’n,
409 A.2d 505 (Pa. Cmwlth. 1980)..... 14-15, B-1

Norfolk & Western Railway v. Pa. Pub. Util. Comm’n,
413 A.2d 1037 (Pa. 1980).....15, B-1

UGI Corp. v. Pa. Pub. Util. Comm’n,
410 A.2d 923 (Pa. Cmwlth. 1980).....37

Pennsylvania Public Utility Commission Decisions

Application of Hidden Valley Utility Services, L.P., Docket Nos. A-210117 and
A-230101 (Final Order entered July 15, 2005).....5, 7, 23, 24

Implementation of Act 129 of 2008; Organization of Bureaus and Offices, Docket
No. C-2018-3003528 (Order entered August 11, 2011)..... A-1

McCloskey v. Hidden Valley Utility Services, L.P. Docket Nos. C-2014-2447138
and C-2014-2447169 (Opinion and Order entered January 18, 2018, Order on
Reconsideration entered May 3, 2018) *passim*

Pa. Pub. Util. Comm’n v. Aqua Pennsylvania, Inc., Docket No. R-00072711
(Opinion and Order entered July 17, 2008)15, B-1

Pa. Pub. Util. Comm’n v. Clean Treatment Sewage Company, Docket Nos. R-
2009-2121928 (Opinion and Order entered April 22, 2010)22, 32

Pa. Pub. Util. Comm’n v. Deer Haven, LLC d/b/a Deer Haven Sewer Company,
2011 Pa. PUC LEXIS 1864 (Opinion and Order entered May 19, 2011)37

Pa. Pub. Util. Comm’n, et al. v. Delaware Sewer Company, Docket No. R-2014-
2452705 (Opinion and Order entered July 30, 2018)36, B-3

Pa. Pub. Util. Comm’n, et al. v. Lake Latonka Water Company, 1989 Pa. PUC
LEXIS 231 (Recommended Decision dated November 28, 1989, Final Order
entered October 16, 1989).....22, 30, 33, 36, B-2

Pa. Pub. Util. Comm’n v. National Utilities, Inc., 1997 Pa. PUC LEXIS 100
(Opinion and Order entered January 16, 1997)30

Pa. Pub. Util. Comm’n v. PECO Energy Company, Docket Nos. R-00973953 and
P-00971265 (Opinion and Order entered December 23, 1997).....14, B-1

Pa. Pub. Util. Comm'n v. Pennsylvania Gas & Water Co., 61 Pa. PUC 409 (1986)
 (Opinion and Order entered April 25, 1986)15, 24, 30, 43, 44, B-2

Pa. Pub. Util. Comm'n v. Pennsylvania Power and Light Company, Docket Nos.
 822169et al., 57 Pa. PUC 559 (1983)45

Pa. Pub. Util. Comm'n v. Philadelphia Gas Works, Docket No. R-00061931
 (Opinion and Order entered September 28, 2007).....15, 30, 43, B-2

Other Authorities

James H. Cawley and Norman J. Kennard, A Guide to Utility Ratemaking (2018
 Edition)40

I. INTRODUCTION AND STATEMENT OF THE CASE

This case presents a classic “Catch-22” situation: Hidden Valley Utility Services, L.P. (“Hidden Valley” or the “Company”) is a small water and wastewater company that is financially challenged, in part, because it has not raised rates since it obtained its certificate of public convenience in 2005. In early 2018, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) found that the Company is not providing reasonable and adequate water or wastewater service, and ordered it to make extensive costly improvements within a limited time frame. *McCloskey v. Hidden Valley Utility Services, L.P.*, Docket Nos. C-2014-2447138 and C-2014-2447169 (“*McCloskey*”).¹ The Company is making a good faith effort to comply with the *McCloskey* Decisions, but making the required improvements will cost a significant amount of money.

Consequently, the Company filed the instant proceedings seeking rate relief for both its water and wastewater systems to enable the Company to comply with the *McCloskey* Decisions and to place the Company on more solid financial ground. The Office of Consumer Advocate (“OCA”), the Hidden Valley Foundation, Inc. (“Foundation”),² and Robert J. Kollar (“Mr. Kollar”), however, contend that the Company should not be permitted to increase rates *at all* until *after* the improvements have been made and service is improved.

The Company and the Bureau of Investigation and Enforcement (“I&E”) – the prosecutory arm of the Pennsylvania Public Utility Commission (“PUC” or “Commission”) – submitted a Joint Petition for Approval of Non-Unanimous Settlement (“Settlement”), which represents a

¹ For ease of reference, the various decisions in *McCloskey* will be referenced as follows: the Initial Decision will be referenced as the “September 2016 I.D.”, the Commission’s Order on Exceptions will be referenced as the “January 2018 Order,” the Commission’s Order on the merits regarding Hidden Valley’s Petition for Clarification, Reconsideration or Amendment will be referenced as the “May 2018 Order,” and the January 2018 Order and the May 2018 Order will be referenced collectively as the “*McCloskey* Decisions.”

² The Foundation is the homeowners’ association in the development served by Hidden Valley. Foundation Complaint (Water), Docket No. C-2018-3003528; Foundation Complaint (Wastewater), Docket No. C-2018-3003529.

reasonable approach to resolving this Catch-22. With respect to the Company's water system, the Settlement proposes a rate increase of \$65,557, or approximately 46.6% over present rates (as opposed to the increase of \$150,629, or approximately 107.2% over present rates, originally proposed by the Company). For the average residential water customer, the Settlement would result in a rate increase of \$12.06 per quarter (or \$4.02 per month). **Appendix E**, Tables, Water Bill Comparison.³ Although the Settlement is a "black box" settlement, it should be noted that the amount of the increase is virtually identical to I&E's primary litigation position. I&E Statement No. 1-SR (Water), Surrebuttal Testimony of John Zalesky p. 2. As I&E witness Kubas explained, I&E's primary litigation position was to "allow the Company to recover operating expenses and plant claimed in the base rate filing (subject to [certain ratemaking adjustments]) but will not allow the Company to earn a profit" because the Commission found in *McCloskey* that the Company is not providing adequate and reasonable water service. I&E Statement No. 3 (Water), Direct Testimony of Joseph Kubas, p. 5.

With respect to the Company's wastewater system, the Settlement proposes a stepped increase in rates. Initially, rates would increase by \$82,227, or approximately 28.0% over present rates (as opposed to the increase of \$185,432, or approximately 63.1% over present rates, originally proposed by the Company). For the average residential wastewater customer, this step increase would be \$15.82 per quarter (or approximately \$5.27 per month) over present rates. **Appendix E**, Tables, Quarterly Sewer Bill Comparison – Phase I. Although the Settlement is a "black box" settlement, it should be noted that the amount of the initial step increase is virtually identical to I&E's primary litigation position. I&E Statement No. 1-SR (Wastewater), Surrebuttal

³ For convenience, Hidden Valley has attached the Settlement at **Appendix D**. The Settlement provides for a certain revenue requirement, Paragraph A, and proposes that the rate increases proposed in Hidden Valley's original filing be scaled back proportionately. Paragraph B. For convenience, tables showing the scaled-back rates, as compared to the Company's original rate requests, are attached in **Appendix E**.

Testimony of John Zalesky p. 2. As I&E witness Kubas explained, I&E's primary litigation position was to "allow the Company to recover operating expenses and plant claimed in the base rate filing (subject to [certain ratemaking adjustments]) but will not allow the Company to earn a profit" because the Commission found in *McCloskey* that the Company is not providing adequate and reasonable wastewater service. I&E Statement No. 3 (Wastewater), Direct Testimony of Joseph Kubas p. 5.

When the Company documents that it has made the improvements to its wastewater system that were ordered in the *McCloskey* Decisions, which is expected to occur on or about January 31, 2019, rates would increase again, so that the Company can now recover a total increase of \$145,824, or approximately 49.7% over present rates. For the average residential wastewater customer, the two-step increase would result in a total increase of \$28.65 per quarter (or \$9.55 per month) over present rates. **Appendix E**, Tables, Quarterly Sewer Bill Comparison Phase II. Although the Settlement is a "black box" settlement, it should be noted that the amount of the second step of the increase is very close to I&E's secondary litigation position. I&E Statement No. 1-SR (Wastewater), Surrebuttal Testimony of John Zalesky p. 4. I&E's secondary litigation position, unlike its primary litigation position, allows the Company to obtain a return on equity.

Hidden Valley respectfully requests that Deputy Chief Administrative Law Judge Mark A. Hoyer (the "DCALJ") and Administrative Law Judge Katrina L. Dunderdale (the "ALJ") (collectively, the "ALJs") recommend approval of the Settlement. The Settlement is in the public interest and should be approved; the proposed rates are just and reasonable and the Settlement strikes an appropriate balance between the interests of the utility and the consumer. The Settlement gives the Company modest rate relief, which will be used to implement the improvement plan that the Commission provided for the Company in the *McCloskey* Decisions. This combination of

modest rate relief and an improvement plan will enable the Company to improve service, which promotes the public interest.

The position advocated by the OCA, the Foundation and Mr. Kollar – a complete denial of any rate relief at this time – is unduly harsh and is not in the public interest. Denying the Company any rate relief, at the same time as the Commission is requiring the Company to make extensive, costly improvements, will destroy the Company and virtually ensure that the Company is unable to make the repairs required by the *McCloskey* Decisions. These results do not promote the interests of either consumers or the Company.

The Settlement is a reasonable compromise, offered by the Company and the prosecutory arm of the Commission. Adoption of the Settlement by the ALJs and the Commission would represent a significant step forward in addressing the instant Catch-22.

II. BACKGROUND AND PROCEDURAL HISTORY

A. BACKGROUND

1. The Company

Hidden Valley is a Pennsylvania limited partnership⁴ that owns and operates two public utilities: a water treatment and distribution system and a wastewater treatment and collection system. The Company's service territory consists of approximately 1,399 acres and is the geographic boundary of Hidden Valley (the "Resort"), a ski and golf resort community in Jefferson Township, Somerset County, Pennsylvania. HVUS Statement No. 1 (Wastewater), Direct Testimony of James M. Kettler, p. 2; HVUS Statement No. 1 (Water), Direct Testimony of James M. Kettler, p. 2.

⁴The partners are James M. Kettler with a 99% ownership interest and Kettler Brothers of Hidden Valley with a 1% ownership interest. September 2016 I.D. Finding of Fact 5.

Hidden Valley received its certificates of public convenience in 2005. *Application of Hidden Valley Utility Services, L.P.*, Docket Nos. A-210117 and A-230101 (Final Order entered July 15, 2005) (“2005 Application Proceeding”). Its initial rates took effect on August 31, 2005, and Hidden Valley has never filed for a rate increase prior to the instant proceeding.

In the September 2016 I.D., at Finding of Fact 49, Administrative Law Judge Jeffrey A. Watson (“ALJ Watson”) found that the Company experienced losses in six years during the time period from 2007 through 2013. In 2017, the net operating income available for return for the wastewater system was (\$105,045), HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, and the net operating income available for return for its water system was (\$51,736), HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, for a total (loss) of (\$156,781).

2. The Water System

Hidden Valley’s water system presently serves approximately 1,156 residential and non-residential customers. In addition, Hidden Valley has approximately 18 availability customers and 50 private fire customers. HVUS Statement No. 1 (Water), Direct Testimony of James M. Kettler, p. 2.

The water system dates from the 1970s. A high-yield, high-quality groundwater well (Well No. 1) was drilled in 1982. The existing water system consists of two wells, treatment facilities, high-service pumps, a 250,000 gallon storage tank, and a distribution system containing approximately 18 miles of water mains, fire hydrants, approximately 1,175 connections and miscellaneous valves. The majority of connections on the system are seasonal/weekend customers. Demand on the system fluctuates with maximum demands occurring during weekends and holidays. HVUS Statement No. 1 (Water), Direct Testimony of James M. Kettler, p. 3.

The system has a history of iron and manganese in the water dating back to at least 2004. HVUS Statement No. 1 (Water), Direct Testimony of James M. Kettler, p. 3. The Pennsylvania Department of Environmental Protection (“DEP”) has established secondary maximum contaminant levels for iron (0.3 milligrams per liter (mg/l)) and manganese (.05 mg/l). OCA Statement 3 (Water), Direct Testimony of Terry L. Fought, p. 3. In 2008, Hidden Valley received a permit from DEP for a sequestration system to treat its water, which is a permissible method of responding to iron and manganese in water, where, as here, the total iron and manganese concentrations do not exceed 1.0 mg/l. OCA Statement 3 (Water), Direct Testimony of Terry L. Fought, p. 3.

In addition to sequestration, Hidden Valley has worked to improve water quality by adding loops at dead ends in the system, increasing flushing of the system, and adding automatic flush valves at existing dead ends that cannot be looped. HVUS Statement No. 1 (Water), Direct Testimony of James M. Kettler, p. 3.

3. The Wastewater System

Hidden Valley’s wastewater system presently serves approximately 1,154 residential and non-residential customers. It also serves approximately 18 availability customers. An additional 207 residential units are currently permitted for wastewater treatment, but the present owners of the Resort do not intend further development. HVUS Statement No. 1 (Wastewater), Direct Testimony of James M. Kettler, p. 2.

The wastewater system has been in operation since the mid-1980’s. The wastewater system includes two treatment plants. Plant No. 1 has a 100,000 gallons per day (“GPD”) capacity and Plant No. 2 has a 30,000 GPD capacity. Plant No. 1 also has 300,000 gallon equalization tanks. Treated effluent from both plants is pumped to a storage lagoon for treatment on a 20-acre

wooded spray field. HVUS Statement No. 1 (Wastewater), Direct Testimony of James M. Kettler, p. 3.

The wastewater system planning was approved by Jefferson Township and DEP in 1993. The treatment plant has a number of unusual operational conditions because of the flow variations from the transient resort population. Peak flows are seen on winter weekends, with low flow conditions during the week and in the spring and fall. HVUS Statement No. 1 (Wastewater), Direct Testimony of James M. Kettler, p. 4.

The Hidden Valley wastewater collection system contains six grinder pump stations. The stations are equipped with temporary storage volume for emergencies, as well as an alarm light and horn that are activated by a high water level in the pump station or a power outage. Each pump station is equipped with duplicate grinder pumps for back-up in case of mechanical pump failure. HVUS Statement No. 1 (Wastewater), Direct Testimony of James M. Kettler, p. 5; HVUS Statement No. 4-R (Wastewater), Rebuttal Testimony of Glenn Fodor p. 2.

4. The *McCloskey* Case

On October 9, 2014, the OCA filed complaints against Hidden Valley, alleging that the Company failed to provide adequate and reasonable water and wastewater service, as required by Section 1501 of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. § 1501. A hearing was held on November 17, 2015. Certain evidence was admitted into the record after the hearing, and the record was closed on June 8, 2016.

On September 9, 2016, ALJ Watson issued his Initial Decision, sustaining the OCA’s complaints and finding, *inter alia*, that (a) Hidden Valley had complied with some, but not all, of the provisions of the settlement agreement resolving the 2005 Application Proceeding,⁵ September

⁵ One of these provisions states: “With its next rate filing, but in no case later than two (2) years from the Effective Date of the Settlement, the Company was required to submit a report to [the Commission’s Bureau of Fixed Utility

2016 I.D., Ordering Paragraph 2; (b) Hidden Valley violated Section 1501 of the Code because it failed to properly maintain and operate its wastewater system, September 2016 I.D., Conclusion of Law 10; and (c) Hidden Valley violated Section 1501 of the Code because the water provided by Hidden Valley is not suitable for basic household purposes. September 2016 I.D., Conclusion of Law 9. The ALJ recommended that the Commission order the Company to complete specific tasks, by certain deadlines, to bring the water and wastewater systems into compliance with Section 1501. September 2016 I.D., Ordering Paragraphs 3-19.

ALJ Watson, however, rejected the OCA's request to reduce the rates of Hidden Valley by 50%, or to provide each customer with a usage allowance, stating "It is difficult to reconcile OCA's recommendation for improvements to service, while on the other hand, seeking to deprive the Company of the resources needed to make improvements." September 2016 I.D., p. 31. ALJ Watson also refused to impose a civil penalty on the Company, stating "A civil penalty under the circumstances is not necessary as [Hidden Valley's] resources would be best used in order to comply with the 2005 Settlement and in implementing the remedies imposed by this decision." September 2016 I.D., p. 36.

Exceptions were timely filed, and the Commission issued its January 2018 Order, which adopted ALJ Watson's Initial Decision, as modified. The Commission agreed with the ALJ that the Company failed to provide adequate and reasonable water and wastewater service. January 2018 Order, p. 23. The Commission also agreed with the ALJ that the Company should be ordered

Services, now the Bureau of Technical Utility Services] and all parties reassessing the need, size and cost of treatment plant to permanently solve the problems caused by the levels of iron and manganese in its water." September 2016 I.D. p. 13. According to the plain language of this provision, Hidden Valley was required to file a report. Hidden Valley did not comply with this provision in that it did not submit the required report within two years. As a result, the January 2018 Order and the May 2018 Order contained a similar requirement for the Company to obtain a report assessing the need, size and cost of treatment plant, but added that the Company was required to implement that report. The Company obtained the required report in April 2018 and is in the process of implementing it, as discussed below.

to complete specific tasks, by certain deadlines, to bring the water and wastewater systems into compliance with Section 1501. January 2018 Order, Ordering Paragraphs 5-27.

In addition, the Commission agreed with the ALJ that the Company's rates should not be reduced, stating: "We believe that the requested remedies could prevent the Company from making the necessary repairs, alterations and improvements to its water and wastewater systems and thereby prevent [Hidden Valley] from complying with the remedial obligations under Section 1501." January 2018 Order, p. 24. Similarly, the Commission agreed with the ALJ's refusal to impose a civil penalty on Hidden Valley, stating: "Our rationale for rejecting the rate reduction or usage allowance is similarly relevant to our consideration of whether to apply a civil penalty. A civil penalty could impair the Company's ability to finance any of the improvements to its system recommended in the engineer's report." January 2018 Order, p. 56.

The Company subsequently filed a Petition for Clarification, Reconsideration and Amendment ("Petition for Amendment"). The Commission granted the Petition for Amendment in part, and denied it in part. The Commission modified and/or restated the Ordering Paragraphs in the January 2018 Order, setting forth tasks for the Company to complete by certain dates to bring the water and wastewater systems into compliance with Section 1501 of the Code. May 2018 Order, Ordering Paragraph 2.

As revised by the May 2018 Order, Ordering Paragraph 17 requires the Company to file status reports every sixty days reporting on its progress in complying with the May 2018 Order.

The status reports filed to date demonstrate:

- Hidden Valley is in compliance with Ordering Paragraph 15 (requiring the Company to pay all electric and telephone bills timely, and requiring the Company to authorize its electric supplier to provide monthly billing and payment information to OCA);

- Hidden Valley is in compliance with Ordering Paragraph 22 (requiring HVUS to have a spare pump and motor available for Well No. 1 within 72 hours after the primary pump and motor become inoperable);
- Hidden Valley has been in compliance with Ordering Paragraph 24 since February 2015 (it has had an operational second high lift pump since February 2015);
- Hidden Valley is in compliance with Ordering Paragraph 15 (requiring the Company to provide an annual update of telephone numbers);
- Hidden Valley is in compliance with Ordering Paragraphs 12 and 13 (requiring the Company to work with the OCA, the Commission’s Bureau of Consumer Services and the Commission’s Bureau of Technical Utility Services (“TUS”) to modify the Company’s bills);
- Hidden Valley is in compliance with Ordering Paragraphs 6, 7 and 23 (requiring the Company to file an engineer’s report in April 2018 regarding its water system (the “Water System Engineer’s Report”) and to provide copies to the OCA and TUS);
- Hidden Valley is in compliance with Ordering Paragraphs 9 and 10 (requiring the Company to file an engineer’s report in April 2018 regarding its wastewater system (the “Wastewater System Engineer’s Report”) and to provide copies to the OCA and TUS);
- Hidden Valley has been in compliance with Ordering Paragraph 5 since November 2016 (it has constructed the required replacement lines, with construction of the last line being completed in November 2016);
- Hidden Valley is complying with Ordering Paragraph 5.b. (requiring the Company to conduct semi-annual customer meetings); and
- Hidden Valley submitted fourteen corrected Annual Reports to the Commission on July 17, 2018, in an attempt to comply with Ordering Paragraph 14 (requiring the Company to amend prior annual reports containing incorrect information).⁶

Status Reports filed April 18, 2018; May 9, 2018; May 18, 2018; July 19, 2018; September 17, 2018; and November 16, 2018.

Finally, on October 18, 2018, Hidden Valley filed a Petition for Amendment of the May 2018 Order (“Petition for Amendment”). That Petition for Amendment argues that compliance with the May 2018 Order is impossible because that Order requires the Company to construct a water treatment plant, or a pipeline to connect to a different water source, by April 2019, but the Water System Engineer’s Report estimated that four years is required to complete such a project.

⁶ As discussed in detail below, some parties to the instant litigation contend that these amended reports still contain errors, but the Settlement includes provisions to address these concerns.

The Company asked the Commission to modify certain deadlines in the May 2018 Order to permit the Company to comply with that Order. The OCA and Mr. Kollar filed Answers opposing the Company's Petition for Amendment. As of this date, this matter remains pending before the Commission.

B. PROCEDURAL HISTORY

On April 27, 2018, Hidden Valley filed proposed Supplement No. 1 to Water – Pa. P.U.C. No. 1 (“Water Supplement No. 1”), to be effective July 1, 2018, proposing an increase in rates designed to produce an increase in base rate revenues of approximately \$150,629 per year. The average residential bill for water service would have increased from \$26.64 per quarter to \$54.72 per quarter (or an increase of \$28.08 per quarter). HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Appendix, p. 14. This rate request was based on a 2017 historic test year. This matter was docketed at R-2018-3001306.

Also on April 27, 2018, Hidden Valley filed proposed Supplement No. 1 to Wastewater – Pa. P.U.C. No. 1 (“Wastewater Supplement No. 1”) to be effective July 1, 2018, proposing an increase in rates designed to produce an increase in base rate revenues of approximately \$185,432 per year. The average residential bill for wastewater service would have increased from \$56.76 per quarter to \$96.42 per quarter (or an increase of \$36.66 per quarter). HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, Appendix, p. 14. This rate request was also based on a 2017 historic test year. This matter was docketed at R-2018-3001307.

Although Hidden Valley filed a rate increase request for its wastewater system at the same time that it filed a rate increase request for its water system, the Company did not seek to combine its water and wastewater revenue requirements pursuant to 66 Pa. C.S. § 1311(c). HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, p. 6.

On May 14, 2018, the OCA filed a Notice of Appearance and a Formal Complaint against the wastewater rate increase, which was docketed at C-2018-3001843, as well as a Notice of Appearance and a Formal Complaint against the water rate increase, which was docketed at C-2018-3001841.

By Orders entered May 17, 2018, the PUC suspended Water Supplement No. 1 and Wastewater Supplement No. 1 by operation of law until February 1, 2019, unless permitted by Commission Order to become effective at an earlier date.

Hidden Valley and the OCA agreed to enter into mediation in an attempt to resolve these proceedings. Consequently, on May 23, 2018, Hidden Valley filed Water Supplement No. 2 and Wastewater Supplement No. 2, suspending the rates in Water Supplement No. 1 and Wastewater Supplement No. 1 until April 1, 2019. Mediation ultimately proved unsuccessful.

On May 30, 2018, Counsel for I&E filed her Notice of Appearance in both Hidden Valley's proposed water rate increase proceeding and Hidden Valley's proposed wastewater rate increase proceeding. In addition, several customers filed complaints against the proposed water rate increase and/or the proposed wastewater rate increase.

Pursuant to a Prehearing Conference Order/Mediation Session dated May 31, 2018, a Prehearing Conference was held telephonically on June 19, 2018. On June 15, 2018, Hidden Valley filed a Petition for Protective Order in both the water rate increase proceeding and the wastewater rate increase proceeding. Hidden Valley filed revised Petitions for Protective Order on June 20, 2018.

On June 19, 2018, a Further Prehearing Conference Notice was issued notifying the parties that a Further Prehearing Conference would be held on July 26, 2018. On June 25, 2018, DCALJ Hoyer issued a Further Prehearing Conference Order.

DCALJ Hoyer issued the First Prehearing Order on June 27, 2018 memorializing decisions rendered at the Prehearing Conference. *Inter alia*, this Order consolidated Hidden Valley's water and wastewater rate increase proceedings and adopted modifications to the Commission's Rules of Administrative Practice and Procedure regarding discovery.

On June 29, 2018, a Public Input Hearing Notice was issued, regarding two public input hearings, both scheduled to be held on July 27, 2018. On July 3, 2018, DCALJ Hoyer issued the First Interim Order – Public Input Hearings, addressing notice and other requirements for the public input hearings. The public input hearings were held at 2:00 p.m. and 6:00 p.m. on July 27, 2018 at the Hidden Valley Resort.

On July 23, 2018, DCALJ Hoyer granted Hidden Valley's Motion for Protective Order. On that same date, DCALJ Hoyer issued the Second Interim Order Consolidating Additional Complaints. On July 24, 2018, DCALJ Hoyer issued the Revised Second Interim Order Consolidating Additional Complaints.

A Further Prehearing Conference was held on July 26, 2018. DCALJ Hoyer issued a Further Prehearing Order dated July 31, 2018. Among other things, this order established a full service list and a limited service list. Mr. Kollar and the Foundation were initially included on the limited service list, but subsequently requested to be included on the full service list.

An evidentiary hearing was held on November 16, 2018. Hidden Valley, the OCA, I&E, and the Foundation were present and represented by counsel. At the hearing, the parties introduced a Joint Stipulation for the Admission of Evidence, stipulating to the authenticity and admission into the record of testimony and exhibits pertaining to capital structure and rate of return. Hidden Valley and I&E also introduced the Settlement, which was subsequently served on all persons on the limited service list and the full service list. Finally, the parties introduced a Joint Stipulation

preserving certain issues for litigation in this proceeding. As will be described further below, the Settlement and the Joint Stipulation, read together, ask that the ALJs and the Commission approve a certain revenue requirement and rate structure. The revenue requirement is a “ceiling” on the Company’s rate increase, but the OCA and the Foundation wish to preserve certain issues for litigation, including the claim that Hidden Valley should receive less than the agreed-to revenue requirement based on the quality of service rendered to customers.

On November 21, 2018, the OCA filed a Motion to Admit into Evidence the Record of Other Proceedings Pursuant to 52 Pa. Code § 5.407, seeking to incorporate evidence from the *McCloskey* proceedings into the record in this proceeding. This motion was unopposed, and was granted by Interim Order Admitting Hearing Record from Related Proceedings dated November 29, 2018.

III. LEGAL STANDARD

The Commission’s standards for reviewing a non-unanimous settlement are the same as those for deciding a fully contested case. *Pa. Pub. Util. Comm’n v. PECO Energy Company*, Docket Nos. R-00973953 and P-00971265 (Opinion and Order entered December 23, 1997). In deciding any general rate increase case brought under Section 1308(d) of the Code, 66 Pa. C.S. § 1308(d), certain general legal standards apply.

Section 1301 of the Code, 66 Pa. C.S. § 1301, provides: “every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.” The burden of proof to establish the justness and reasonableness of every element of the utility’s rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a). “It is well-established that the evidence adduced by a utility to meet this burden must be substantial.” *Lower Frederick Twp. v. Pa. Pub.*

Util. Comm'n, 409 A.2d 505, 507 (Pa. Cmwlth. 1980). Substantial evidence consists of evidence that a reasonable mind might accept as adequate to support a conclusion. A mere trace of evidence, or a suspicion of the existence of a fact, is insufficient. *Norfolk & Western Railway v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

While the burden of proof remains with the public utility throughout the rate proceeding, the Commission has stated that where a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. Pub. Util. Comm'n v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Opinion and Order entered July 17, 2008). As stated in *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931 (Opinion and Order entered September 28, 2007) at 12: “Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a *prima facie* case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the *prima facie* case.”

In addition, Section 523 of the Code, 66 Pa. C.S. § 523, requires the Commission to “consider . . . the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates. . . .” The Commission has stated:

[I]n exchange for the utility’s provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility’s investors In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs.

Pa. Pub. Util. Comm'n v. Pennsylvania Gas & Water Co., 61 Pa. PUC 409 (Opinion and Order entered April 25, 1986), 415-16 (“*PG&W*”). Accordingly, the General Assembly has given the

Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds “that the service rendered by the public utility is inadequate.” 66 Pa. C.S. § 526(a).

IV. SUMMARY OF ARGUMENT

The Settlement and the Joint Stipulation, read together, request that the ALJs recommend approval of, and the Commission approve, a certain revenue requirement and rate structure for Hidden Valley, subject to certain terms and conditions, while preserving certain issues for litigation. Specifically, in the Settlement, Hidden Valley has agreed to reduce its proposed water rate increase from \$150,629 to \$65,557. Hidden Valley has also agreed to reduce its proposed wastewater rate increase from \$185,432 to: (1) an initial step increase of \$82,227 following entry of a Commission order approving the Settlement, and (2) a second step increase, of an additional \$63,597 (or a total increase of \$145,824), upon submission of the Company’s report, with a verification from its engineer, stating that all repairs, modifications and improvements to Hidden Valley’s wastewater system have been completed, as required by Ordering Paragraphs 11 and 19 of the May 2018 Order in *McCloskey*. The total amount of the increase is approximately 62.9% of the Company’s total requested water and wastewater rate increase.

While this is a “black box” settlement, the amount of the increase for Hidden Valley’s water system is almost identical to I&E’s primary litigation position, which was that Hidden Valley should be permitted to increase rates to cover its costs, but the Company should not be permitted to receive any return on equity because *McCloskey* held that the Company is in violation of Section 1501. Similarly, the first step of the increase for Hidden Valley’s wastewater system is almost identical to I&E’s primary litigation position, which was that Hidden Valley should be permitted to increase rates to cover its costs, but the Company should not be permitted to receive any return

on equity because *McCloskey* held that the Company is in violation of Section 1501. The second step of the increase for Hidden Valley's wastewater system is almost identical to I&E's secondary litigation position, which was that Hidden Valley should be permitted to increase rates to cover its costs, together with a return on equity. Since the second step of the increase would only occur when Hidden Valley has complied with the mandates of the *McCloskey* Decisions, there would be no reason to deny Hidden Valley a return on equity.

The Settlement is supported by substantial evidence. Other than the Company and I&E, the only party to introduce evidence regarding the Company's revenue requirement was the OCA. The OCA's primary litigation position is that the Company should receive no rate increase because *McCloskey* held that the Company is not providing reasonable and adequate service. If the Company does receive a rate increase, the OCA argued that it should receive a total of \$217,320. This amount is greater than the \$147,784 increase that the Settlement would permit the Company to receive initially, and the \$211,381 increase that the Settlement would permit the Company to receive after the Company demonstrates that its wastewater system is in compliance with the *McCloskey* Decisions. Thus, all of the active parties to the case have introduced evidence supporting a revenue requirement at least equal to the revenue requirement agreed-to in the Settlement.

Pursuant to the Stipulation, the Company's agreed-to revenue requirement is a "ceiling." The OCA and the Foundation reserved the following issue for litigation: Whether the Commission should deny Hidden Valley Utility Services, L.P., any rate increase for water and wastewater, pursuant to 66 Pa. C.S. §§ 523 and 526, due to quality of service. Hidden Valley respectfully submits that Hidden Valley's rate increase should not be reduced below the amount agreed-to in the Settlement.

By combining a modest increase in rates with the improvement plan established by the Commission in the *McCloskey* Decisions, the Settlement represents an appropriate balancing of the interests of the utility and the ratepayer. It also represents a practical way of addressing the present Catch-22 by allowing the Company a modest increase in rates that will be used to improve service to ratepayers. In contrast, the approach recommended by the OCA, the Foundation, and Mr. Kollar would destroy the Company and prevent it from making the mandated improvements in service. These results would not promote the public interest. As a result, the ALJs should recommend approval of, and the Commission should approve, the Settlement.

In the *McCloskey* Decisions, ALJ Watson and the Commission rejected requests to impose sanctions on Hidden Valley, out of a concern that doing so would prevent the Company from complying with the Commission's Orders. That same reasoning applies with equal force to the instant case. The Settlement provides for a significant reduction in the Company's water and wastewater rate requests. In that sense, it already represents a partial denial of the Company's rate requests. The evidence demonstrates that the Company is making a good faith effort to comply with the *McCloskey* Decisions and will use the funds from the rate increase to implement the improvement plan established in the *McCloskey* Decisions. It would be unreasonably harsh for the Commission to impose a costly, extensive improvement plan on a Company that is already losing money, and then deny the Company the rate relief to enable it to comply with that plan.

A complete denial of rate relief would be particularly harsh for the Company's wastewater system. Although *McCloskey* held that the Company's wastewater system is in violation of Section 1501, not every violation of Section 1501 warrants the extreme penalty of completely denying a rate increase. Prior Commission decisions have held that a denial of rate relief is only warranted where the Commission finds serious deficiencies in the utility's services.

The evidence does not show that the Company is currently providing wastewater service that is so poor as to warrant the extreme remedy of denying any rate relief. The Company is not under a moratorium, nor is wastewater spilling on the ground. All pumping stations now have duplicate pumps and working alarms. The Company has obtained an engineer's report containing recommendations to bring its wastewater system into compliance with Section 1501, is required to implement those recommendations by January 31, 2019,⁷ and expects to comply with that requirement. The Settlement represents a more reasonable balancing of the interests of the utility and the ratepayers than does the approach advocated by the OCA, the Foundation, and Mr. Kollar – denying the Company's instant wastewater rate request, only to permit the Company to re-file for rate relief in February 2019, after the Company demonstrates that its wastewater system is in compliance with the *McCloskey* Decisions.

Prior Commission decisions do not warrant a further reduction in the Company's rate request. Prior cases have held that the policy of the law should be to aid utilities in rendering adequate service, and should never be to destroy a utility. By combining modest rate relief with a plan for improvement, the Settlement promotes the goal of enabling the Company to address the issues identified in *McCloskey* and improve service to customers. Denying the Company *any* rate relief would only serve to punish the Company and prevent it from complying with *McCloskey*.

As discussed below, prior cases have acknowledged that there is a cost to providing public utility service. The Company is not presently covering the costs of providing service, largely because it has not raised rates since 2005. In 2017, the net operating income available for return for the Company's wastewater system was (\$105,045), and the net operating income available for return for its water system was (\$51,736), for a total (loss) of (\$156,781). The Settlement is

⁷ It is significant to note that the January 31, 2019 deadline, established in the January 2018 Order, will almost certainly precede the entry of the Commission's final order in this case.

consistent with I&E's primary litigation position, which is that the Company should be permitted to increase rates to recover its costs of providing water and wastewater service. In addition, after the Company demonstrates that its wastewater system is in compliance with the *McCloskey* Decisions, Code Sections 523 and 526 provide no reason for denying a reasonable return on equity.

Prior cases have also acknowledged the importance of gradualism, or increasing rates gradually over time, so as to avoid rate shock to customers. At the public input hearings, many customers criticized the Company for violating this principle by not raising rates since 2005. The "elephant in the room," which no one wants to discuss, is the rate increase that will be required when the improvements required by the *McCloskey* Decisions have been completed. If the Company is not permitted to raise rates at all until it complies with the *McCloskey* Decision, the instant rate request will be re-filed at the same time that the Company seeks to recover the costs of complying with *McCloskey*. The result will be a very large rate increase. Instead, the ALJs should recommend, and the Commission should adopt, the modest rate increases proposed in the Settlement.

Prior cases have also acknowledged the constitutional right of a utility to a reasonable return on its investment. This right is subject to the "regulatory bargain" between the Company and its ratepayers. Cases discussing the "regulatory bargain" emphasize the Commission's need to balance the interests of the utility and the ratepayers. In this case, the interests of the Company and the ratepayers are aligned – both want to see service improved. If the Company is denied *any* rate relief, the Company will be destroyed and will be unable to comply with the mandates of the *McCloskey* Decisions. By definition, rates that are so low that they destroy the Company are unconstitutional.

The Settlement more appropriately balances the interests of the Company and its ratepayers. By combining a modest increase with the improvement plan established by the Commission in the *McCloskey* case, the Settlement will enable the Company to improve service, thereby providing a practical way of addressing the present Catch-22 situation.

V. QUALITY OF SERVICE

In the Joint Stipulation, the following issue was preserved for litigation: Whether the Commission should deny Hidden Valley Utility Services, L.P., any rate increase for water and wastewater, pursuant to 66 Pa. C.S. §§ 523 and 526, due to quality of service.

Section 523(a) of the Code provides:

§ 523. Performance factor consideration.

(a) Considerations.—The commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate. Any adjustment made under this section shall be made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly, together with their underlying rationale, in the final order of the commission.

Section 526(a) of the Code provides:

§ 526. Rejection of rate increase requests due to inadequate quality or quantity of service.

(a) General rule.--The commission may reject, in whole or in part, a public utility's request to increase its rates where the commission concludes, after hearing, that the service rendered by the public utility is inadequate in that it fails to meet quantity or quality for the type of service provided.

Both of these provisions give the Commission *discretion* to reduce a utility's rate request, in part or in whole, based on the quality of service it is providing to customers. *Pa. Pub. Util. Comm'n v. Clean Treatment Sewage Company*, Docket Nos. R-2009-2121928 *et al.* (Opinion and Order entered April 22, 2010) ("*Clean Treatment*") p. 18; *Pa. Pub. Util. Comm'n, et al. v. Lake Latonka Water Company*, 1989 Pa. PUC LEXIS 231 *45 (Recommended Decision of Administrative Law Judge Herskovitz, Final Order entered October 16, 1989) ("*Lake Latonka*").

In this proceeding, Hidden Valley and I&E are asking the Commission to approve a Settlement that substantially reduces the amount of Hidden Valley's original rate increase. Hidden Valley respectfully submits that the Commission should not exercise its discretion to reduce the Company's rate relief further because the Settlement properly balances the interests of customers and the utility. As discussed in more detail below, reducing the Company's rate request further is not warranted by the *McCloskey* Decisions, is not warranted by the record in this case, and is not warranted by prior Commission and court decisions.

A. A FURTHER REDUCTION OF THE COMPANY'S RATE RELIEF IS NOT WARRANTED BY THE MCCLOSKEY DECISIONS

The Commission held in *McCloskey* that the Company is not providing reasonable and adequate water and wastewater service as required by 66 Pa. C.S. § 1501. That fact, in and of itself, does not require a further reduction in Hidden Valley's rate request; not every violation of Section 1501 warrants the reduction of a utility's rate request. The question presented is whether the facts and circumstances of this case warrant a further reduction in Hidden Valley's rate request. Hidden Valley submits that a further reduction of its rate request is not warranted.

1. *McCloskey Gave the Company a Plan for Improvements*

In the *McCloskey* Decisions, the Commission ordered the Company to complete certain tasks, within stated timeframes, to bring its water and wastewater systems into compliance with Section 1501. This fact is critically important in view of the Commission's decision in *Clean Treatment*. In that case, the Commission completely denied a public utility's request for rate relief, based on the company's failure to provide reasonable and adequate service. The Commission, however, stated:

We fully realize that improvements to the Company's service and facilities will require a rate increase, but we have seen nothing in this filing that indicates that any improvements will be forthcoming. While we have concluded that CTSC's instant rate filing must be rejected in its entirety, *this result is without prejudice to CTSC's right to file for a rate increase that includes a plan (including milestones for permitting, constructing, and financing capital improvements) that would bring CTSC's service and facilities into compliance with the Code.*

Clean Treatment p. 20 (emphasis added).

In the *McCloskey* Decisions, the Commission gave Hidden Valley a plan for improvements, including milestones. Among other things, the Commission directed the Company to: address issues that remained outstanding from the settlement of the 2005 Application Proceeding; address issues with its billing; obtain an engineer's report and implement its recommendations to address issues with the water system; and obtain an engineer's report and implement its recommendations to address issues with the wastewater system. Failure to meet the stated deadlines will result in the institution of further proceedings, but compliance with those deadlines will result in the *McCloskey* case being dismissed without sanctions being imposed on the Company. May 2018 Order Ordering Paragraphs 27 and 28.

The status reports filed since the January 2018 Order demonstrate that the Company is making a good faith effort to implement the Commission's improvement plan.⁸ Status Reports filed April 18, 2018; May 9, 2018; May 18, 2018; July 19, 2018; September 17, 2018; and November 16, 2018. Among other things, the Company has:

- Worked with the OCA and Commission staff to address its billing issues;
- Complied with the ordering paragraphs concerning outstanding items from the settlement of the 2005 Application Proceeding.;
- Obtained the required engineer's report concerning its wastewater system, and is in the process of implementing it, Tr. 236-237 and HVUS Exhibit JMK-REJ1; and
- Obtained the required engineer's report concerning its water system and is in the process of implementing it. Tr. 239-242.

To the extent that the Company believes it is unable to comply with the May 2018 Order in a timely manner, the Company has petitioned the Commission to extend the deadline. Petition to Amend the May 2018 Order. This is not a case in which the Company is demonstrating a disregard for, flouting, or defiance of the Code and the Commission's Orders and regulations.

Clean Treatment did not require the utility to fully implement a plan for improvements before it filed a rate increase.⁹ Neither should Hidden Valley be required to fully implement the Commission's improvement plan before obtaining the modest rate relief proposed in the Settlement. This is particularly true considering that the *McCloskey* Decisions did not prohibit the Company from filing for a rate increase to help finance the improvement plan.¹⁰

⁸ On July 17, 2018, Hidden Valley filed 14 revised annual reports as required by the January 2018 Order. Some of the parties to this case contend that these reports still contain errors. Even if the annual reports still contain errors, the fact that Hidden Valley timely filed 14 revised annual reports demonstrates a good faith attempt to comply. Hidden Valley's good faith is further demonstrated by the fact that its Settlement with I&E includes provisions to file additional corrected annual reports. See Section VII.C., *infra*.

⁹ See also, *PG&W* at Ordering Paragraph 4 ("That Pennsylvania Gas and Water Company's, Water Division, rates shall remain at current levels until the Company demonstrates that it is *making substantial progress* in providing its customers with water suitable for all household purposes.") (emphasis added).

¹⁰ Mr. Kollar specifically argued that the Company should be prohibited from filing for any rate increases until all of the recommended improvements have been completed, but the ALJ denied that request. September 2016 I.D. p. 26.

It is significant to note, in this regard, that the deadline for the Company to complete the required improvements to its wastewater system is January 31, 2019, which will almost certainly precede the date a final Commission Order is entered in this case. It would elevate form over substance to hold that the Company should be denied rate relief for its wastewater system in this case, but can file a new case seeking rate relief for its wastewater system in February 2019, after the improvements to its wastewater system have been completed.

Finally, it is worth noting that, in the January 2018 Order, the Commission reviewed the factors and standards for evaluating litigated and settled proceedings involving violations of the Code and Commission regulations. 52 Pa. Code § 69.1201. The Commission concluded that the enforcement provisions included in that Order, including the potential initiation of a Section 529 proceeding for non-compliance with the January 2018 Order, obviated the need for a civil penalty to deter future violations. January 2018 Order, p. 56.

In that Order, the Commission expressed concern about whether the utility has modified its internal practices and procedures to address the issues of concern and to prevent similar conduct in the future. January 2018 Order, p. 55. The record in this case demonstrates that the Company has in fact modified its internal practices and procedures such that it is making a good faith effort to comply with the *McCloskey* Decisions.

Withholding rate relief until the Company has fully complied with the improvement plan established in *McCloskey* is not necessary to enforce that plan. Moreover, it is inconsistent with the *Clean Treatment* decision, which permitted a company to file a request for rate relief that includes a plan for improving the system. As a result, the ALJs should recommend, and the Commission should permit, the Company to obtain the modest rate relief requested in the Settlement.

2. A Modest Rate Increase Will Enable the Company to Comply with McCloskey

In the *McCloskey* proceedings, the OCA asked the Commission to reduce the Company's rates by 50% as a remedy for violating Section 1501. In the alternative, the OCA asked that the Company be required to provide each customer with a usage allowance of 2,000 gallons. September 2016 I.D. p. 29. Mr. Kollar and other intervenors asked the Commission to impose a civil penalty of at least \$125,000. January 2018 Order, p. 51. The ALJ and the Commission refused both parties' requests.

The Administrative Law Judge stated:

In addition, OCA's recommendation that the Commission impose a 50% reduction in the Company's rates is contrary to OCA's expressed desire to see service improvements at Hidden Valley. OCA seeks greater service improvements that will cost undetermined amounts of money while seeking to significantly reduce revenues to the Company. OCA witness Fought testified that his proposed solutions to the service problems he identified assume that the Company has the resources to implement each one of the recommended solutions, while acknowledging that he has "no idea" how much each proposal would cost. Tr. 333-334. In her testimony, OCA witness Everette acknowledged that "decreased revenues could make it more difficult for a company to finance an improvement." Tr. 344. It is difficult to reconcile OCA's recommendation for improvements to service, while on the other hand, seeking to deprive the Company of the resources needed to make improvements. Accordingly, based upon the evidence presented, OCA's rate reduction proposal must be rejected.

September 2016 I.D., p. 31. The ALJ concluded that the allegations set forth in the complaint and the facts established at the hearing did not rise to the level where a rate reduction would be justified. *Id.* p. 32.

In the January 2018 Order, the Commission repeatedly expressed its concern that the requested remedies would adversely impact the Company's ability to comply with the mandated improvements in service. The Commission stated:

“We believe that the requested remedies could prevent the Company from making the necessary repairs, alterations and improvements to its water and wastewater systems and thereby prevent HVUS from complying with the remedial obligations under Section 1501.” January 2018 Order, p. 24.

“At present, a rate reduction or usage allowance would cause a prospective reduction in revenue which we believe would hamstring the Respondent’s ability to comply with our Order.” January 2018 Order, p. 25.

“Also, our rationale for rejecting the rate reduction or usage allowance is similarly relevant to our consideration of whether to apply a civil penalty. A civil penalty could impair the Company’s ability to finance any of the improvements to its system recommended in the engineer’s report.” January 2018 Order, p. 56.

The instant case involves a request for a modest rate increase, rather than a request for a rate reduction, as was before the Commission in the *McCloskey* Decisions. Nevertheless, the Commission’s concern for ensuring that the Company has the financial wherewithal to implement the required improvements yields the same result – the Commission should approve the modest rate relief requested in the Settlement, so the Company can implement the improvement plan contained in the *McCloskey* Decisions.

Some key facts have changed since the *McCloskey* Decisions were rendered, but some have not. There is no evidence demonstrating that the service issues at Hidden Valley have become worse since those decisions were rendered. In fact, most of the evidence introduced by the OCA in this proceeding concerning quality of service is quite stale – most of it pre-dates the *McCloskey* hearing. *See*, OCA Statement 3, Direct Testimony of Terry L. Fought (Water); OCA Statement 3S, Surrebuttal Testimony of Terry L. Fought (Water); OCA Statement 3, Direct Testimony of Terry L. Fought (Wastewater); OCA Statement 3S, Surrebuttal Testimony of Terry L. Fought (Wastewater).

In contrast, Hidden Valley has introduced evidence demonstrating that it is continuing to make improvements in its water and wastewater systems and is making a good faith effort to implement the changes required by the *McCloskey* Decisions. HVUS Statement No. 1-R, Rebuttal Testimony of James M. Kettler (Water) pp. 8-10, 17, 18-19; HVUS Statement No. 1-R, Rebuttal Testimony of James M. Kettler (Wastewater), pp. 8-10, 16, 17; HVUS Exhibit JMK-REJ1; Tr. 236-237; HVUS Statement No. 4-R, Rebuttal Testimony of Glenn Fodor (Wastewater), pp. 2, 4; Status Reports filed April 18, 2018; May 9, 2018; May 18, 2018; July 19, 2018; September 17, 2018; and November 16, 2018. The Company has not yet completed all of the required changes, but the final deadline for doing so has not yet arrived. Hidden Valley respectfully submits that the service issues at this time do not rise to the level that would warrant a further reduction of its requested rate increase.¹¹

One key fact that has not changed is that the Company continues to lose money. In 2017, the net operating income available for return for the wastewater system was (\$105,045), HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, and the net operating income available for return for its water system was (\$51,736), HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, for a total (loss) of (\$156,781). Expenses, however, have increased significantly due to the mandates of the *McCloskey* Decisions. The Company was required to obtain engineer's reports recommending changes in the water and wastewater systems. It has done so, at substantial expense. The engineer's report recommended changes for the wastewater system totaling \$227,900. OCA Statement 3 (Wastewater), Direct Testimony of Terry L. Fought, Exhibit TLF-1. The engineer's report for the water system estimates the cost of building a new treatment plant, or building a

¹¹ This is particularly true with regard to the wastewater system. See Section V.B., *infra*.

pipeline to obtain water from an alternative source, at \$852,000 to \$2,389,000.¹² HVUS Statement No. 1-R, Rebuttal Testimony of James M. Kettler, HVUS Exhibit JMK-2, p. 6. In addition, the *McCloskey* Decision includes other mandates for the water system that will cost the Company money, including testing and replacing water meters. January 2018 Order, Ordering Paragraph 6.

The evidence establishes that the Company will use the money from the rate increase to pay for the improvements that were ordered by the Commission. Tr. 232; HVUS Statement No. 1, Direct Testimony of James M. Kettler (Water), p. 4; HVUS Statement No. 1, Direct Testimony of James M. Kettler (Wastewater), p. 6. The OCA attempts to respond to this evidence using an accounting trick – it argues that the rate increase is based on a 2017 historic test year, and so does not include any of the costs of the improvements ordered by the Commission. OCA Statement 1S (Wastewater), Surrebuttal Testimony of Stacy L. Sherwood p. 2; OCA Statement 1S (Water), Surrebuttal Testimony of Stacy L. Sherwood, p. 2. That argument fails to demonstrate that the money is not needed, and will not be used, for making the required improvements. As I&E witness Kubas stated, Hidden Valley’s rate request included depreciation expenses. “These amounts can be invested in plant to improve service quality.” I&E Statement 3-SR, Surrebuttal Testimony of Joseph Kubas (Wastewater), p. 12.

The Commission’s January 2018 Order demonstrated the Commission’s concern with the practical realities of ensuring that the Company has the financial wherewithal to pay for the required improvements. The Company has struggled financially for some time, partly because of its failure to request rate relief. The parties to this case, as well as the customers at the public input hearing, criticized the Company for failing to file a rate request previously, in order to improve

¹² The improvement plan included in the *McCloskey* Decisions is more extensive, and more costly, than the improvements contemplated by the Company at the time of the Initial Decision, when the Company asked to be allowed to proceed with its proposed plan while maintaining rates at the level established in 2005. September 2016 I.D. at 27.

service to customers. I&E Statement No. 3 (Wastewater), Direct Testimony of Joseph Kubas p. 18 (“the Company could have filed a base rate case to improve its water and wastewater infrastructure”; Tr. 166 (public input testimony of Mr. Kollar).

In the Settlement, the Company and the Commission’s prosecutory arm request that the Commission grant Hidden Valley modest rate relief to enable it to comply with the Commission’s plan for improvements. Giving the company rate relief, in order to enable it to improve its services, is in the public interest. The interest of consumers is better served by enabling the Company to provide them with better service, rather than punishing the company in a way that prevents it from improving service. The policy of the law should be to enable compliance, not prevent it. *Lake Latonka, supra*, 1989 Pa. PUC LEXIS 231 at *46-49.

B. A FURTHER REDUCTION OF THE COMPANY’S WASTEWATER RATE INCREASE IS NOT WARRANTED BY THE RECORD

A denial of rate relief, in whole or in part, is an extreme remedy. Consequently, the Commission has made clear that this remedy is only warranted where the Commission finds serious deficiencies in the utility’s service. *See e.g., PG&W* at *30 (“Finally, we believe this Commission has the necessary authority, pursuant to its statutory authority to determine the justness and reasonableness of proposed rates, to refuse to consider a rate increase by a utility which has *seriously failed* to provide adequate service.”) (emphasis added); and *Pa. Pub. Util. Comm’n v. National Utilities, Inc.*, 1997 Pa. PUC LEXIS 100 (Opinion and Order entered January 16, 1997) at *9 and 15 (the Commission adopted Administrative Law Judge Debra Paist’s recommendation to deny a rate increase in its entirety due to “a significant failure” on the part of the company to provide water fit for all household purposes).

Although Hidden Valley is a single corporate entity, it operates two distinct utilities – a wastewater system and a water system. It should not be denied a rate increase for its wastewater system, in whole or in part, based on the quality of its water service, nor should it be denied a rate increase for its water system, in whole or in part, based on the quality of its wastewater service. HVUS Statement No. 1-R (Wastewater), Rebuttal Testimony of James M. Kettler, p. 2.

In the *McCloskey* Decisions, the Commission found Hidden Valley’s wastewater system in violation of Section 1501 based on the record in a hearing held in November 2015. As discussed above, much has changed since that date. In the instant proceeding, Glenn Fodor testified that all of the pump houses now have duplicate pumps and working alarms. HVUS Statement No. 4-R (Wastewater), Rebuttal Testimony of Glenn Fodor p. 2. Mr. Kettler testified that in 2016, the Company replaced the pump at the North Summit Lagoon, installed four liquid chlorine pumps and replaced the flow charge, and installed a new pressure transducer and pump controller for the equalization tank. HVUS Statement No. 1-R (Wastewater), Rebuttal Testimony of James M. Kettler, p. 9. As required by the *McCloskey* Decisions, the Company has obtained an engineer’s report regarding the wastewater system, and is in the process of implementing the recommendations. Tr. 235-236; HVUS Exhibit JMK-REJ1. The deadline for completing these repairs and improvements is January 31, 2019, which will almost certainly be before this case is ultimately resolved by the Commission.

There is little evidence in this record regarding inadequate wastewater service after the date of the hearing in *McCloskey*, which was held in November 2015. There was very little testimony at the public input hearings regarding the wastewater system. In fact, most of the testimony at the public input hearings regarding the wastewater system actually involved complaints about the water system – customers complained that they needed to run their water for long periods to flush

out dirty water, but flushing the water increases their wastewater bills. *See e.g.*, Tr. 66 (public input testimony of Chris Umble) and 98-99 (public input testimony of Linda Jewison).

Most of OCA witness Terry L. Fought's testimony regarding the wastewater system concerned events that occurred prior to 2015. OCA Statement 3 (Wastewater), Direct Testimony of Terry L. Fought; OCA Statement 3S (Wastewater), Surrebuttal Testimony of Terry L. Fought. Mr. Fought noted the status, as of July 27, 2018, of the items on the engineer's April 2018 report concerning the wastewater system. Exhibit TLF-1. Hidden Valley should not be denied a rate increase based on such stale evidence, particularly considering that Hidden Valley has introduced more recent evidence concerning the quality of its wastewater service.

Mr. Fought discussed potential problems that could occur at the wastewater system (*e.g.*, sewage flowing out of a pumping station and contaminating the ground and groundwater, OCA Statement 3 (Wastewater), Direct Testimony of Terry L. Fought p. 4), but there is no evidence that those "disaster scenarios" ever became reality. To the contrary, Mr. Kettler testified that those "disaster scenarios" did not occur. HVUS Statement No. 1-R (Wastewater), Rebuttal Testimony of James M. Kettler, p. 16. Moreover, Mr. Fought admitted at the hearing that Hidden Valley's wastewater system is not under a moratorium banning additional connections, Tr. 309, further distinguishing the instant case from cases such as *Clean Treatment*, which involved much more significant failures by the utility in providing reasonable and adequate wastewater service.

It is significant to note, in this regard, that Mr. Fought testified about customer complaints. He stated that the Company received 45 customer complaints from January 1, 2015 to June 22, 2018. Thirty-seven of these complaints concerned dirty water. In addition, the OCA received copies of 25 informal complaints to the PUC, of which 23 concerned dirty water. OCA Statement

No. 3 (Water), Direct Testimony of Terry L. Fought, p. 12. Mr. Fought does not mention a single complaint regarding the wastewater system.

The limited evidence in the record regarding the quality of service presently provided by Hidden Valley's wastewater system fails to rise to the level that would justify the extreme remedy of denying the modest rate relief requested in the Settlement for Hidden Valley's wastewater system. The proposed Settlement would grant the Company a 28% increase in wastewater rates – an amount sufficient to cover Hidden Valley's costs of providing wastewater service – until such time as the Company demonstrates that its wastewater system has complied with the *McCloskey* Decisions. At that time, the Company would qualify for a second step increase because Code Sections 523 and 526 would provide no basis for denying rate relief at that time. Consequently, the ALJs should recommend approval of, and the Commission should approve, the Settlement's proposed modest rate relief for the wastewater system.

C. A FURTHER REDUCTION OF THE COMPANY'S RATE RELIEF IS NOT WARRANTED BY PRIOR COMMISSION AND COURT DECISIONS

1. A Complete Denial of Rate Relief Would Destroy the Company

In *Lake Latonka, supra*, the Commission adopted the Recommended Decision of Administrative Law Judge Richard S. Herskovitz. That Recommended Decision approved, as modified, a non-unanimous settlement in a rate case, despite a property owners association's argument that the rate increase should be completely denied pursuant to Section 526. The ALJ stated:

Thus, we are in a Catch 22 situation – the Company is not entitled to a rate increase until it improves the quality of its water, but the Company can't improve the quality of its water unless it has a rate increase. I can deny the proposed rate increase as requested by [the property owners association], in which case there would be very little if any hope of water improvement, or I can grant at least some

rate relief with conditions that the proceeds be used by the Company to clean up its system.

1989 Pa. PUC LEXIS 231 at *17.

The settlement agreement in that case gave the company modest rate relief, coupled with conditions designed to improve service. The ALJ stated:

As admitted to by the [property owners association] in its Main Brief, the suggested improvements will be very costly to [Lake Lotanka Water Company (“LLWC”)]. Such improvements certainly cannot be pursued by a financially crippled utility or one not permitted rates sufficient to produce a reasonable return. As pointed out by LLWC in its Reply Brief, the New Jersey Court of Errors and Appeals in *City of Elizabeth v. Board of Public Utility Commissioners*, P.U.R. 1924C 524, 527, 123 A. 358 (1924), recognized:

The policy of the law is and should be to aid utilities to properly function and to render adequate service to the public by permitting rates to be charged for the service rendered, which will yield an adequate return upon the capital invested, maintain the property, and attract capital. The policy should never be one of destruction. *O’Brien v. Public Utility Comm’rs*, 92 N.J.L. 44, P.U.R. 1919B, 865, 105 Atl. 132. A starved utility is in no better position to render proper service [than] a starved horse or a motor car without fuel. (Emphasis added.)

This principle was likewise recognized by the Florida Public Service Commission in *The General Telephone Company of Florida*, 81 PUR 3rd 498, 505-506 (1970):

In fixing public utility rates, this commission has a duty to consider the quality of service being rendered by the utility in question. At the same time, it has a responsibility to give a public utility an opportunity to meet its service obligations through necessary plant additions. This requires constantly increasing capital expenditures which cannot be financed if the return is unreasonably low . . . The granting of too much relief would, of course, be unfair to the public. At the same time, the granting of insufficient relief would not only penalize a utility that is making every effort to improve its service, but would prolong the

poor service through the company's inability to finance further improvement. Our power to withhold rate relief in appropriate circumstances, where the quality of service justifies such action, is a powerful tool that is bringing about a steady and substantial improvement in public utility services, as is evident in this particular case which has not been before the commission for more than two years. The purpose of the law is to achieve good service and its reasonable use will accomplish that purpose. At the same time, we must be careful that we do not jeopardize the ability of a public utility to accomplish the purpose of the law. (Emphasis added.)

1989 Pa. PUC LEXIS 231 *46-49.

This case is very similar. Hidden Valley is financially challenged. In the *McCloskey* case, ALJ Watson found that the Company experienced losses in six years during the time period from 2007 through 2013. September 2016 I.D., Finding of Fact 49. In 2017, the net operating income available for return for the Company's wastewater system was (\$105,045), HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, and the net operating income available for return for its water system was (\$51,736), HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, for a total (loss) of (\$156,781). In the *McCloskey* Decisions, the Commission ordered the Company to undertake improvements that will cost between \$1,079,900 and \$2,616,900¹³ in a short period.¹⁴ To deny the Company any rate relief, in this situation, would destroy the Company, virtually guaranteeing that improvements will not be made. Tr. 231 (testimony of James M. Kettler, "if you look back over the last ten years, we

¹³ As discussed above, according to the engineer's reports, the cost of the wastewater improvements is \$227,900, and the cost of building a new water treatment plant or a pipeline to an alternate source of water is between \$852,000 and \$2,389,000. In addition, the *McCloskey* Decisions include additional requirements (such as testing and replacing water meters) that are not included in these figures.

¹⁴ To put these figures in context, the total operating revenue for the wastewater system in 2017 was \$290,724, HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, and the total operating revenue for the water system in 2017 was \$143,194, HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6.

have lost approximately [\$]1.3 or \$1.4 million in revenues; and we just cannot continue to operate in that fashion.”).

The Company, like its customers, is looking to the Commission for help. HVUS Statement No. 1-R (Water), Rebuttal Testimony of James M. Kettler, p. 16. The customers want better service, and the Commission has ordered the Company to provide it. The Company is making a good faith effort to do so, but requires additional revenue to make the necessary improvements. In the Settlement, the Company has already agreed to a substantial reduction in its request for rate relief. In this case, as in the *Lake Lotanka* case, the public interest would be best served by a modest rate increase together with conditions on the utility to improve service. The *McCloskey* Decisions already imposed the conditions. The Administrative Law Judges should recommend approval of, and the Commission should approve, the modest rate relief described in the Settlement.

2. The Modest Rate Increase Proposed in the Settlement Would Ensure that the Company Can Cover the Costs of Providing Service

In several prior cases, the Commission has permitted modest rate relief, even though a company was not providing reasonable and adequate service, because the Commission recognized that the utility must provide service to customers and must incur expenses to provide that service. For example, in *Pa. Pub. Util. Comm'n, et al. v. Delaware Sewer Company*, Docket No. R-2014-2452705 (Opinion and Order entered July 30, 2018), the Commission stated:

[Delaware Sewer Company] is not providing adequate service, has not presented plans to address the service issues raised in this proceeding, and has not sought funds to make necessary changes. Moreover, other than including a claim for [cash working capital], the Company has not claimed any rate base or debt. Therefore, we shall provide sufficient revenue to cover reasonable expenses, addressed, *supra*, and allow a modest operating income.

Pa. Pub. Util. Comm'n, et al. v. Delaware Sewer Company, at 36.

In *Pa. Pub. Util. Comm'n v. Deer Haven, LLC d/b/a Deer Haven Sewer Company*, 2011 Pa. PUC LEXIS 1864 (Opinion and Order entered May 19, 2011), a utility filed for a rate increase, but included no claim for rate base, return on equity or overall rate of return. “The ALJ pointed out that revenues are needed to provide quality service, and when revenues are diminished and the rate base of customers is constant, then increased rates are needed to increase revenue or quality of service will suffer.” 2011 Pa. PUC LEXIS 1864 at *53. Although Administrative Law Judge Angela T. Jones concluded that the Company had deficiencies in its service, she recommended a rate increase sufficient to cover the costs of providing service. In its decision on Exceptions, the Commission agreed with the ALJ that the evidence of record demonstrated that the Company violated Section 1501 of the Code, and agreed that “the ALJ has proposed a reasonable solution to the crucial issue presented herein in her recommendation that the Company be granted a rate increase of a level to cover its total allowable expenses.” 2011 Pa. PUC LEXIS 1864 at *64.¹⁵

These cases support approval of the Settlement. Although the Settlement is a “black box” settlement, it should be noted that the amount of the water increase is virtually identical to I&E’s primary litigation position. I&E Statement No. 1-SR (Water), Surrebuttal Testimony of John Zalesky p. 2. As I&E witness Kubas explained, I&E’s primary litigation position was to “allow the Company to recover operating expenses and plant claimed in the base rate filing (subject to [certain ratemaking adjustments]) but will not allow the Company to earn a profit” because the Commission found in the *McCloskey* Decisions that the Company is not providing adequate and reasonable water service. I&E Statement No. 3 (Water), Direct Testimony of Joseph Kubas p. 5. The water rate increase proposed in the Settlement should be approved because it would allow the Company to cover its costs of providing service.

¹⁵ *Cf.*, *UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923 (Pa. Cmwlth. 1980) (the law is clear that a utility is entitled to recover its reasonably incurred expenses).

Similarly, the first step of the wastewater increase proposed in the Settlement should be approved because it would allow the Company to cover its costs of providing service. The first step in the Settlement's proposed wastewater rate increase is an increase of \$82,227. That amount is virtually identical to I&E's primary litigation position. I&E Statement No. 1-SR (Wastewater), Surrebuttal Testimony of John Zalesky p. 2. As I&E witness Kubas explained, I&E's primary litigation position was to "allow the Company to recover operating expenses and plant claimed in the base rate filing (subject to [certain ratemaking adjustments]) but will not allow the Company to earn a profit" because the Company is not providing adequate and reasonable wastewater service. I&E Statement No. 3 (Wastewater), Direct Testimony of Joseph Kubas p. 5.

The second step of the wastewater rate increase proposed in the Settlement, in contrast, should be approved because that increase would not occur until the Company documents that it has made the improvements to its wastewater system that were ordered in the *McCloskey* Decisions. At that time, the Company would be providing reasonable and adequate wastewater service, May 2018 Order, Ordering Paragraph 28, and there would be no basis for reducing the Company's requested rate increase based on quality of service.

The proposed Settlement, like ALJ Jones' approach in *Deer Haven*, represents a reasonable solution to the instant Catch-22. It would protect the interests of customers and the Company by ensuring that the Company has the money to cover the costs of providing service until it complies with the *McCloskey* Decisions.

3. A Modest Increase in Rates is Consistent with the Commission's Policy Favoring Gradualism

If the Commission agrees with the OCA, the Foundation, and Mr. Kollar, and holds that Hidden Valley cannot increase rates *at all* until the Company has completed all of the improvements required by the *McCloskey* Decisions, the Company will not be able to increase

rates for several years. This is because the engineer's report for the water system estimates that the Company will need four years to build a new water treatment plant or to construct a pipeline to an alternative water source. HVUS Statement No. 1-R (Water), Rebuttal Testimony of James M. Kettler, HVUS Exhibit JMK-2 pp. 2-3.¹⁶ As a result, the Company would need to re-file the instant rate request again in several years – at the same time that it is seeking to raise rates to reflect the costs of implementing the *McCloskey* Decisions.

The “elephant in the room,” which no one wants to discuss, is the additional rate increase that will be required after the Company complies with the *McCloskey* Decisions. As the OCA has noted, the present rate increase does not include the costs of the projects required by those orders. OCA Statement 1S (Wastewater), Surrebuttal Testimony of Stacy L. Sherwood p. 2; OCA Statement 1S (Water), Surrebuttal Testimony of Stacy L. Sherwood, p. 2. The engineers' report for the water system listed several options for dealing with the iron and manganese in the water (two options for constructing a new water treatment plant and two options for building a pipeline to connect to another water source) and estimated that the costs to customers of these options will range from \$8 to \$20 per month per customer. HVUS Statement No. 1-R (Water), Rebuttal Testimony of James M. Kettler, HVUS Exhibit JMK-2 p. 6. Since Hidden Valley bills quarterly, this would mean a rate increase of \$24 to \$60 per quarter just for the construction of a new water treatment plant or a pipeline to connect to an alternative water source; this figure does not include the cost of complying with the other mandates of the *McCloskey* Decisions for the water system, such as the cost of testing and replacing water meters, nor does it include the costs of complying with the mandates of the *McCloskey* Decision for the wastewater system.

¹⁶ OCA witness Terry L. Fought testified at the evidentiary hearing that just obtaining a new permit from DEP to switch from the current sequestration treatment method to an alternative approach would take two years. Tr. 312-313.

In the instant case, Hidden Valley proposed an increase in water rates for the average residential user of \$28.08, from \$26.64 per quarter to \$54.72 per quarter (an increase of 105.43% per quarter). HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 14. If Hidden Valley is unable to raise rates at all in this proceeding, it would re-file the instant rate claim in several years when it has complied with the *McCloskey* Decisions – at the same time that it files to recover the costs of complying with the *McCloskey* Decisions. Thus, the \$28.08 per quarter rate increase would be combined with the \$24-60 per quarter rate increase for constructing the water treatment plant or pipeline to connect to an alternative water source. The result would be an increase of \$52.08 to \$88.08 per quarter (or an increase of approximately 195% to 331%). Again, this increase does not include the costs of complying with the other requirements of *McCloskey* for the water system, nor does it consider the increase in wastewater rates that would probably be requested at the same time as the increase in water rates.

This result would be inconsistent with the Commission's well-established policy of gradualism (meaning that rates should not be raised too abruptly). James H. Cawley and Norman J. Kennard, A Guide to Utility Ratemaking (2018 Edition) p. 138. At the public input hearing, customers of Hidden Valley complained about the size of the present rate increase and criticized the Company for failing to raise rates gradually between 2005 and the present. Tr. 166-167 (testimony of Mr. Kollar). They will understandably complain much more if the Company files a rate increase that is two or three times the size of the present request for rate relief. Such a large rate increase would not be in the public interest.

In contrast, the Settlement proposes a modest rate increase at the present time, which would be consistent with the Commission's policy of gradualism. Under the Settlement, the increase for the average residential water user would be \$12.06 per quarter, or a 45.3% increase over present

rates. **Appendix E**, Water Bill Comparison. Under the Settlement, the first step of the increase for the average residential wastewater user would be \$15.82, or a 26.5% increase over present rates. **Appendix E**, Quarterly Sewer Bill Comparison – Phase I. The second step of the increase for wastewater rates would be an additional \$12.83 per quarter, bringing the total wastewater increase to \$28.65 per quarter, or an increase of 47.9% over present rates. **Appendix E**, Quarterly Sewer Bill Comparison Phase II. Considering the substantial rate request that will come in the future when the Company complies with the *McCloskey* Decisions, the public interest favors granting the Company the modest rate relief requested in the Settlement.

4. A Complete Denial of Rate Relief Would Deny Hidden Valley its Constitutional Rights

In determining a fair rate of return, the Commission has been guided by the criteria provided by the United States Supreme Court in the seminal cases of *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923) (“*Bluefield*”) and *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) (“*Hope*”). In *Bluefield*, the Court stated:

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

Bluefield, 262 U.S. at 692-93.

In *Hope*, the Court stated:

From the investor or company point of view, it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

Hope, 320 U.S. at 603 (citations omitted).

In the instant case, a complete denial of rate relief would result in a return for investors that is so low as to be unconstitutional.¹⁷ The Company has not raised rates in 13 years. As a result, the Company is losing money; its net operating income for 2017 was (\$105,045) for the wastewater system, HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, and (\$51,736) for the water system. HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6.

Consequently, customers are not paying the cost of providing service.¹⁸ According to I&E's primary litigation position, covering the costs of providing service would require a rate increase of \$82,236 for the wastewater system, I&E Statement No. 1-SR (Wastewater), Surrebuttal Testimony of John Zalesky p. 3, and \$65,544 for the water system. I&E Statement No. 1-SR (Water), Surrebuttal Testimony of John Zalesky p. 3.

¹⁷ See also *Keystone Water Company v. Pa. Pub. Util. Comm'n*, 477 Pa. 594, 607, 385 A.2d 946, 953 (1978) ("Rates which are not sufficient to yield a reasonable rate on the value of the property used ... are confiscatory, and their enforcement deprives the public utility company of its property in violation of the 14th Amendment.").

¹⁸ The parties to this case, like the parties to the *McCloskey* case, have criticized the Company for the partnership distributions that have been paid to owners over the years. See e.g., I&E Statement No. 3, Direct Testimony of Joseph Kubas, pp. 18-19. However, there is no evidence that Mr. Kettler has improperly pocketed Company funds while refusing to make upgrades in the water or wastewater system. The Company does not pay Mr. Kettler a salary or benefits, nor does it reimburse him for expenses such as travel to and from Hidden Valley. He is entitled to, and receives, reasonable compensation for his services as President of a company that runs two utilities; he received an average payment from the Company of \$65,988 per year from 2005 through 2017. HVUS Statement No. 1-R (Water), Rebuttal Testimony of James M. Kettler, pp. 13-14. During that same period, the Company has invested significant amounts in improvements in its infrastructure. September 2016 I.D., Findings of Fact 15-17; HVUS Statement No. 1-R (Water), Rebuttal Testimony of James M. Kettler, pp. 8, 9-10, and 17; HVUS Statement No. 1-R (Wastewater), Rebuttal Testimony of James M. Kettler, p. 9; and Tr. 261-262. As Mr. Kubas stated at the hearing, paying Mr. Kettler and investing in capital improvements is not an either-or choice. Tr. 296-297.

Of course, these figures do not include the cost of the improvements that the Commission mandated in the *McCloskey* Decisions. As discussed above, the costs of these improvements have been estimated at \$227,900 for the wastewater system. OCA Statement 3 (Wastewater), Direct Testimony of Terry L. Fought, Exhibit TLF-1. For the water system, just the cost of building a new treatment plant or building a pipeline to connect to an alternative source of water would cost between \$852,000 and \$2,389,000. HVUS Statement No. 1-R (Water), Rebuttal Testimony of James M. Kettler, HVUS Exhibit JMK-2 p. 6.

Denying the Company *any* rate relief under these circumstances, as discussed above, would destroy the Company. Rates that are so low as to destroy the Company, by definition, are not just and reasonable – they are unconstitutional.¹⁹

In previous cases involving rate requests, the Commission has recognized the “regulatory bargain” between ratepayers and the utility. In *PG&W, supra*, the Commission stated:

It is our opinion that in exchange for the utility’s provision of safe, adequate, and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return to the utility’s investors. Thus, as the OCA contends, a *quid pro quo* relationship exists between the utility and its ratepayers. In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs. We find this principle to be consistent with the standards enunciated in *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) wherein it was stated that the “. . . fixing of just and reasonable rates involves a balancing of the investor and the consumer interest. . . .”

PG&W, 1986 Pa. PUC LEXIS at *14-15. The Commission further stated:

¹⁹ It is worth noting that the *McCloskey* Decisions include enforcement mechanisms, including the possibility of a Section 529 proceeding, in which the Commission could order the sale of the Company. May 2018 Order, Ordering Paragraphs 21 and 27. It would violate the 14th Amendment for the Commission to order the Company to make improvements, deny the Company the rate relief necessary to enable it to comply, and then order the Company sold for failing to comply.

In the case *sub judice*, by continuing present rates, we are allowing PG&W shareholders a return on their investment albeit lower than the amount requested by the Company. This, it could be argued is more than generous considering the grossly inadequate service being provided by PG&W. However, we must not lose sight of the cardinal principle enunciated in *Hope, supra*, which requires the Commission to balance the interests of the investors and the consumers. In this regard, we note that the ultimate goal of our actions here is to protect the public interest and to ensure that adequate service is provided to the customers of PG&W.

PGW, 1986 Pa. PUC LEXIS at *38.

In the instant case, a complete denial of rate relief would neither promote the public interest nor ensure that adequate service is provided to the customer. To the contrary, a complete denial of rate relief will destroy the Company, ensuring that it is unable to make the improvements in service required by the *McCloskey* Decisions. This result does not appropriately balance the interests of ratepayers and the Company. It serves no policy goal other than punishing the utility.²⁰

The Settlement represents a more appropriate balancing of the interests of ratepayers and the Company. The Settlement proposes a modest rate increase, combined with the improvement plan mandated by the Commission in the *McCloskey* Decisions. The Company will use the proceeds of the rate increase to implement the improvement plan, and so improve service. Tr. 232. Moreover, the amount of the rate increase is consistent with I&E's primary litigation position, that Hidden Valley should be permitted to recover its expenses, but should not be permitted to obtain a return on equity until the Company complies with the mandates of the *McCloskey* Decisions. By allowing the Company to recover its costs, until it comes into compliance with the *McCloskey* Decisions, the Commission would encourage and enable the Company to improve service. The Settlement therefore provides a practical way of resolving the present Catch-22 situation.

²⁰ Additionally, it is worth noting that customers have enjoyed the same rates since 2005, despite increased costs to the utility. Ratepayers should not be permitted to claim the benefits of their regulatory bargain without accepting the costs thereof.

VI. INDEPENDENT AUDIT

In the Joint Stipulation, the following issue was preserved for litigation: Whether the Commission should order Hidden Valley to complete an independent financial audit. The Foundation stated that it wishes to pursue this issue, but the Foundation did not present any testimony in this proceeding.

In its testimony, I&E recommended an independent financial audit of the Company. I&E Statement No. 1-SR (Water), Surrebuttal Testimony of John Zalesky, pp. 17-22.

At the hearing, Mr. Kettler testified that the Company does not oppose this proposal. Tr. 278. The Company, however, believes that it should have the management discretion to select the auditor. It should not be required to issue a request for proposal and to enter into a contract with the lowest responsible bidder. Like any other contract for professional services, management should have the discretion to hire the person or firm with whom it is most comfortable.

Additionally, the Company believes that the results of the audit would be proprietary. Consequently, it should be permitted to keep the results confidential. The Company should be required to notify the Commission and the parties to this proceeding that the audit has been completed, but should not be required to share the results of the audit with the parties.

Finally, the Company believes that the audit should be financed by ratepayers. The Foundation agrees. HVUS Statement No. 1-R (Water), Rebuttal Testimony of James M. Kettler, HVUS Exhibit JMK-4. The Commission has routinely allowed amortization of PUC-mandated management audit expenses. *See e.g., Pa. Pub. Util. Comm'n v. Pennsylvania Power and Light Company*, Docket Nos. 822169 et al., 57 Pa. PUC 559 (1983). A PUC-mandated financial audit should be treated the same. The Company respectfully requests that the ALJs recommend, and the Commission approve, allowing the Company to submit a claim in its next base rate case for

the costs of the audit. The parties to that rate case should be permitted to litigate their positions fully in that proceeding.

VII. NON-UNANIMOUS SETTLEMENT PETITION AND JOINT STIPULATION

The Settlement and the Joint Stipulation, read together, request that the ALJs recommend, and the Commission approve, a certain revenue requirement and rate structure for Hidden Valley, subject to certain terms and conditions. The revenue requirement, however, should be treated as a “ceiling.” In addition, the parties preserved certain issues for litigation.

The issues preserved for litigation have been discussed in previous sections of this brief. In this section, Hidden Valley explains why the Settlement’s proposed rates and rate structure are just and reasonable and are supported by substantial evidence. In addition, Hidden Valley argues that the Settlement proposes a reasonable approach for addressing allegations that the corrected annual reports that Hidden Valley filed in the *McCloskey* case contain errors.

A. REVENUE REQUIREMENT

The Company’s water rate increase and its wastewater rate increase have been consolidated for purposes of hearing and adjudication. The Settlement resolves both Hidden Valley’s water rate case and its wastewater rate case in a single, comprehensive agreement. Therefore, it should be analyzed as a comprehensive settlement.

In the Settlement, the Company agreed to reduce its water rate request to \$65,557. The Company also agreed to reduce its wastewater rate request, using a stepped increase. Initially, rates would increase by \$82,227. When the Company documents that it has made the improvements to its wastewater system that were ordered in the *McCloskey* Decisions, rates would increase again, so that the Company can increase wastewater rates by a total of \$145,824. In short,

I&E and the Company propose that the Company be able to raise its water and wastewater rates by a total of \$147,784 until the Company can demonstrate that its wastewater system is in compliance with the mandates of the *McCloskey* Decisions. When the Company can demonstrate that its wastewater system is in compliance with the mandates of the *McCloskey* Decisions, the Company can increase its water and wastewater rates by a total of \$211,381.

These rates are just and reasonable, and are supported by substantial evidence in the record. As stated above, the amount of the water rate increase is virtually identical to I&E's primary litigation position. I&E Statement No. 1-SR (Water), Surrebuttal Testimony of John Zalesky p. 2. As I&E witness Kubas explained, I&E's primary litigation position was to "allow the Company to recover operating expenses and plant claimed in the base rate filing (subject to [certain ratemaking adjustments]) but will not allow the Company to earn a profit" because the Commission found in *McCloskey* that the Company is not providing adequate and reasonable water service. I&E Statement No. 3 (Water), Direct Testimony of Joseph Kubas, p. 5. The amount of the water rate increase agreed-to in the Settlement is just and reasonable because it allows the Company to recover the costs of providing service.

With respect to the Company's wastewater system, the amount of the initial step increase is virtually identical to I&E's primary litigation position. I&E Statement No. 1-SR (Wastewater), Surrebuttal Testimony of John Zalesky p. 2. As I&E witness Kubas explained, I&E's primary litigation position was to "allow the Company to recover operating expenses and plant claimed in the base rate filing (subject to [certain ratemaking adjustments]) but will not allow the Company to earn a profit" because the Commission found in *McCloskey* that the Company is not providing adequate and reasonable wastewater service. I&E Statement No. 3 (Wastewater), Direct

Testimony of Joseph Kubas p. 5. The initial step of the wastewater rate increase is just and reasonable because it allows the Company to recover its costs of providing service.

The amount of the second step of the wastewater increase is very close to I&E's secondary litigation position. I&E Statement No. 1-SR (Wastewater), Surrebuttal Testimony of John Zalesky p. 4. I&E's secondary litigation position, unlike its primary litigation position, allows the Company to obtain a return on equity. These rates are just and reasonable because Hidden Valley will not receive the second step of the rate increase until it demonstrates that its wastewater system is in compliance with the requirements of the *McCloskey* Decisions. Once Hidden Valley is in compliance with the *McCloskey* Decisions, Sections 523 and 526 provide no basis for denying the Company a return on equity.

The only other party to introduce evidence regarding the Company's revenue requirement was the OCA. The OCA's primary litigation position was that the Company should receive no rate increase whatsoever because the Company is not providing reasonable and adequate service. OCA Statement No. 1 (Water), Direct Testimony of Stacy L. Sherwood p. 3; OCA Statement No. 1 (Wastewater), Direct Testimony of Stacy L. Sherwood p. 3. The OCA's secondary litigation position was that, if the Company receives any rate increase, it should receive a water rate increase of \$99,633, OCA Statement No. 1S (Water), Surrebuttal Testimony of Stacy L. Sherwood p. 4, and a wastewater rate increase of \$117,687. OCA Statement No. 1S (Wastewater), Surrebuttal Testimony of Stacy L. Sherwood p. 4. Thus, OCA's position was that, if the Company is permitted to increase rates at all, it should be permitted to increase rates by \$217,320 over present rates.

The OCA's secondary litigation position would permit a total rate increase that is greater than the total rate increase agreed-to in the Settlement – even after the Company's wastewater system complies with the mandates of the *McCloskey* Decisions. Thus, the Settlement proposes a

revenue requirement figure that is essentially the lowest position advocated by any of the three litigants who introduced evidence on the subject. This fact demonstrates that the revenue requirement agreed-to in the Settlement is just and reasonable and supported by substantial evidence in the record.

B. RATE STRUCTURE

The Settlement proposes a proportionate scale-back of the rates proposed in the Company's initial filing. Settlement, Paragraph B. Attached to the Settlement is a monthly bill comparison, showing the difference between present customer bills and the bills under the rates as proposed in the Settlement. Also attached to the Settlement is a proof of revenue calculation for both the water system and the wastewater system.

The rate structure as proposed by the Company was not contested by any of the other parties to this case. In addition, when the OCA proposed reductions in the Company's initial filing, OCA witness Stacey L. Sherwood advocated a proportionate scale-back of rates. OCA Statement 1 (Water), Direct Testimony of Stacy L. Sherwood, p. 11. Consequently, a proportionate scale-back of rates should be used to implement the rate increase proposed in the Settlement. Attached as **Appendix E** are tables comparing the proposed customer bills under the Company's original rate increase and under the Settlement.

The proportionate scale-back approach is reasonable and has not been contested. Consequently, the ALJs should recommend, and the Commission should adopt, the rate structure proposed in the Settlement.

C. ANNUAL REPORTS

The *McCloskey* Decisions required the Company to file corrected annual reports with the Commission by July 17, 2018. May 2018 Order, Ordering Paragraph 14. On July 17, 2018, Hidden Valley filed fourteen corrected annual reports with the Commission. Status Report dated July 17, 2018. These corrected annual reports were prepared by the president of the Company, who is not an accountant. Tr. 248.

At the public input hearing, Mr. Kollar testified that he believed the corrected annual reports contained errors. Tr. 167-170. I&E's witness John Zalesky concurs with Mr. Kollar. I&E Statement 1-SR (Water), Surrebuttal Testimony of John Zalesky, p. 19.

Consequently, the Settlement includes a provision to address this issue. Settlement, Paragraph C. The Settlement provides that Hidden Valley will submit further corrected annual reports for 2015-2018. To ensure that these annual reports are in fact correct, they are to be prepared or reviewed by a rate consultant prior to submission to the Commission. In addition, for annual reports submitted to the Commission during the period 2019-2023, or until the Company's next rate case (whichever is earlier), Hidden Valley is to have its annual reports prepared or reviewed by a rate consultant.

The Company submits that this provision of the Settlement is a reasonable approach for addressing concerns about the accuracy of the Company's financial records. Moreover, this provision demonstrates the Company's good faith attempt to comply with the mandates of the *McCloskey* Decisions. Consequently, the ALJs should recommend approval of, and the Commission should approve, the Settlement.

VIII. CONCLUSION

For the reasons set forth above, Hidden Valley Utility Services, L.P., respectfully requests that the Administrative Law Judges recommend:²¹

- (1) That the Joint Petition for Approval of Non-Unanimous Settlement be approved;
- (2) That, upon entry of a final Commission Order in this proceeding, Hidden Valley Utility Services, L.P. - Water, be authorized to file water tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein, to produce annual revenues not in excess of \$206,112 or an increase over present revenues of \$65,557.
- (3) That Hidden Valley Utility Services, L.P.'s water tariffs, tariff supplements and/or tariff revisions, described in the preceding paragraph, may be filed on at least one-day's notice.
- (4) That, upon entry of a final Commission Order in this proceeding, Hidden Valley Utility Services, L.P. - Wastewater, be authorized to file wastewater tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein, to produce annual revenues not in excess of \$375,866 or an increase over present revenues of \$82,227.
- (5) That Hidden Valley Utility Services, L.P.'s wastewater tariffs, tariff supplements and/or tariff revisions, described in the preceding paragraph, may be filed on at least one-day's notice.
- (6) That, upon submission of Hidden Valley's report and verification from its engineer stating that all repairs, modifications and improvements to Hidden Valley's wastewater system have been completed, as required by Ordering Paragraphs 11 and 19 of the Commission's May 3, 2018 Order on Reconsideration in *McCloskey v. Hidden Valley Utility Services, L.P.*, Docket Nos.

²¹ Proposed Findings of Fact are attached as **Appendix A**, Proposed Conclusions of Law are attached as **Appendix B**, and Proposed Ordering Paragraphs are attached as **Appendix C**.

C-2014-2447138 and C-2014-2447169, Hidden Valley Utility Services, L.P., be authorized to file wastewater tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein, to produce annual revenues not in excess of \$439,462 or an increase over present revenues of \$145,824.

(7) That the wastewater tariffs, tariff supplements and/or tariff revisions described in the preceding paragraph may be filed on at least one-day's notice.

(8) That, within six months after the entry of the Commission's final order in this proceeding, Hidden Valley Utility Services, L.P submit to the Commission corrected annual reports for the years 2015-2018. These annual reports will be prepared or reviewed by a rate consultant prior to submission to the Commission.

(9) That, during the period 2019-2023 or until its next rate case, whichever is earlier, Hidden Valley Utility Services, L.P. have its annual report prepared or reviewed by a rate consultant prior to submission to the Commission.

(10) That, within twelve months after the entry of the Commission's final order in this proceeding, Hidden Valley Utility Services, L.P complete an independent financial audit. The Company shall file a notice at this docket number, and serve a copy of said notice on all parties to this proceeding, stating that the independent financial audit has been completed.

(11) That the following complaints against the water rate increase be dismissed:

<u>Complainant(s)</u>	<u>Docket Number</u>
Office of Consumer Advocate	C-2018-3001841
Hidden Valley Foundation, Inc.	C-2018-3003528
Robert J. Kollar	C-2018-3003370
Gerry and Melissa Pindroh	C-2018-3001787
Debra J. Simpson	C-2018-3002198
Tom and Shelley Conroy	C-2018-3002468
John Cupps	C-2018-3002468
David Oster	C-2018-3002470
Toni Gorenc	C-2018-3002480

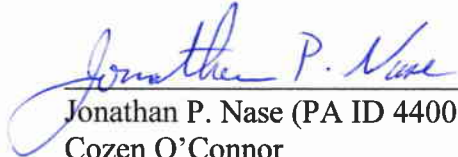
David Brodland	C-2018-3002485
Robert and Katherine Bair	C-2018-3002587
Jerome and Barbary Cypher	C-2018-3002671
Jon and Nina Lewis	C-2018-3002701
Celeste Emrick	C-2018-3003020

(12) That the following complaints against the wastewater rate increase be dismissed:

<u>Complainant(s)</u>	<u>Docket Number</u>
Office of Consumer Advocate	C-2018-3001843
Hidden Valley Foundation, Inc.	C-2018-3003529
Robert J. Kollar	C-2018-3003372
Tom and Shelley Conroy	C-2018-3002200
John Cupps	C-2018-3002459
David Oster	C-2018-3002475
Toni Gorenc	C-2018-3002481
David Brodland	C-2018-3002487
Jerome and Barbara Cypher	C-2018-3002683
Jon and Nina Lewis	C-2018-3002698

(13) That upon filing of the notice described in paragraph 10 above, the proceedings at Docket Numbers R-2018-3001306 and R-2018-3001307 be marked closed.

Respectfully submitted,



Jonathan P. Nase (PA ID 44003)
 Cozen O'Connor
 17 North Second Street
 Suite 1410
 Harrisburg, PA 17101
 Telephone: (717) 773-4191
 E-mail: jnase@cozen.com
 Counsel for *Hidden Valley Utility Services, L.P.*

Date: December 11, 2018

APPENDIX A. PROPOSED FINDINGS OF FACT

The Parties

1. Hidden Valley Utility Services, L.P. (“Hidden Valley” or the “Company”) owns and operates a water treatment and distribution system and a wastewater collection and treatment system in Jefferson Township, Somerset County, Pennsylvania. HVUS Statement No. 1 (Wastewater), Direct Testimony of James M. Kettler, p. 2; HVUS Statement No. 1 (Water), Direct Testimony of James M. Kettler, p. 2.

2. The Office of Consumer Advocate (“OCA”) is a Commonwealth Agency created by Act 161 of 1976 to represent the interests of consumers before the Commission. 71 P.S. § 309-2.

3. The Bureau of Investigation and Enforcement (“I&E”) serves as the prosecutory bureau for the Pennsylvania Public Utility Commission (“PUC” or “Commission”) for the purposes of representing the public interest in ratemaking and service matters, and enforcing compliance with the Pennsylvania Public Utility Code and Commission Regulations and Orders. *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011).

4. Hidden Valley Foundation, Inc. (the “Foundation”) is the homeowners’ association in the development served by Hidden Valley. It is a water and wastewater customer of Hidden Valley. Complaint of the Foundation (Water), Docket No. C-2018-3003528; Complaint of the Foundation (Wastewater) Docket No. C-2018-3003529.

5. Robert J. Kollar (“Mr. Kollar”) lives in the development served by Hidden Valley and is a water and wastewater customer of Hidden Valley. Complaint of Mr. Kollar (Water),

Docket No. C-2018-3003370; Complaint of Mr. Kollar (Wastewater), Docket No. C-2018-3003372.

6. Additional customers of Hidden Valley filed complaints against the water and/or wastewater rate increases. They elected limited party status. Further Prehearing Order p. 5.

The Company

7. Hidden Valley received its certificates of public convenience in 2005. *Application of Hidden Valley Utility Services, L.P.*, Docket Nos. A-210117 and A-230101 (Final Order entered July 15, 2005).

8. Hidden Valley's initial rates took effect in August, 2005, and Hidden Valley has never filed for a rate increase prior to the instant proceeding. HVUS Statement No. 1, Direct Testimony of James M. Kettler (Water), p. 4; HVUS Statement No. 1, Direct Testimony of James M. Kettler (Wastewater) p. 6.

9. The Company experienced losses in six years during the time period from 2007 through 2013. *McCloskey* September 2016 I.D., Finding of Fact 49.

10. In 2017, the Company's net operating income available for return for the wastewater system was (\$105,045), HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, and the net operating income available for return for the Company's water system was (\$51,736), HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Exhibit PRH-2, p. 6, for a total (loss) of (\$156,781).

The Water System

11. Hidden Valley's water system presently serves approximately 1,156 residential and non-residential customers. In addition, Hidden Valley has approximately 18 availability customers

and 50 private fire customers. HVUS Statement No. 1 (Water), Direct Testimony of James M. Kettler, p. 2.

12. The majority of connections on the system are seasonal/weekend customers. Demand on the system fluctuates with maximum demands occurring during weekends and holidays. HVUS Statement No. 1 (Water), Direct Testimony of James M. Kettler, p. 3.

The Wastewater System

13. Hidden Valley's wastewater system presently serves approximately 1,154 residential and non-residential customers. It also serves approximately 18 availability customers. HVUS Statement No. 1 (Wastewater), Direct Testimony of James M. Kettler, p. 2.

14. The treatment plant has a number of unusual operational conditions because of the flow variations from the transient resort population. Peak flows are seen on winter weekends, with low flow conditions during the week and in the spring and fall. HVUS Statement No. 1 (Wastewater), Direct Testimony of James M. Kettler, p. 4.

The Proposed Water Rate Increase

15. On April 27, 2018, Hidden Valley filed proposed Supplement No. 1 to Water – Pa. P.U.C. No. 1 (“Water Supplement No. 1”), to be effective July 1, 2018, proposing an increase in rates designed to produce an increase in base rate revenues of approximately \$150,629 per year. The average residential bill for water service would have increased from \$26.64 per quarter to \$54.72 per quarter (or an increase of \$28.08 per quarter). HVUS Statement No. 2 (Water), Direct Testimony of Paul R. Herbert, Appendix, p. 14.

The Proposed Wastewater Rate Increase

16. On April 27, 2018, Hidden Valley filed proposed Supplement No. 1 to Wastewater – Pa. P.U.C. No. 1 (“Wastewater Supplement No. 1”) to be effective July 1, 2018, proposing an increase in rates designed to produce an increase in base rate revenues of approximately \$185,432 per year. The average residential bill for wastewater service would have increased from \$56.76 per quarter to \$96.42 per quarter (or an increase of \$36.66 per quarter). HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, Appendix, p. 14.

17. Although Hidden Valley filed a rate increase request for its wastewater system at the same time that it filed a rate increase request for its water system, the Company did not ask to combine its water and wastewater revenue requirements pursuant to 66 Pa. C.S. § 1311(c). HVUS Statement No. 2 (Wastewater), Direct Testimony of Paul R. Herbert, p. 6.

The Joint Petition for Non-Unanimous Settlement

18. At the evidentiary hearing, Hidden Valley and I&E submitted a Joint Petition for Approval of Non-Unanimous Settlement (“Settlement”). Joint Exhibit 2.

19. With respect to the Company’s water system, the Settlement proposes a rate increase of \$65,557, or approximately 46.6% over present rates. For the average residential water customer, the Settlement would result in a rate increase of \$12.06 per quarter (or \$4.02 per month).

Appendix D p. 2 and Table 1; **Appendix E**, Tables, Water Bill Comparison.

20. With respect to the Company’s wastewater system, the Settlement proposes a stepped increase in rates. Initially, rates would increase by \$82,227, or approximately 28.0% over present rates. For the average residential wastewater customer, this step increase would be \$15.82 per quarter (or approximately \$5.27 per month) over present rates. Appendix D p. 2 and Table 3;

Appendix E, Tables, Quarterly Sewer Bill Comparison – Phase I. 21. The Settlement proposes that, when the Company documents that it has made the improvements to its wastewater system that were ordered in the *McCloskey* Decisions, the Company can implement the second step of the wastewater rate increase. As a result, the Company can recover a total increase of \$145,824, or approximately 49.7% over present rates. For the average residential wastewater customer, the two-step increase would result in a total increase of \$28.65 per quarter (or \$9.55 per month) over present rates. **Appendix D** p. 2 and Table 5; **Appendix E**, Tables, Quarterly Sewer Bill Comparison Phase II.

22. The Settlement is a black-box Settlement. Joint Exhibit 2, p. 2 n.1.

23. Nevertheless, with regard to the water rate increase, the amount of the increase proposed in the Settlement is virtually identical to I&E’s primary litigation position. I&E Statement No. 1-SR (Water), Surrebuttal Testimony of John Zalesky p. 2. I&E’s primary litigation position was to “allow the Company to recover operating expenses and plant claimed in the base rate filing (subject to [certain ratemaking adjustments]) but will not allow the Company to earn a profit” because the Commission found in *McCloskey* that the Company is not providing adequate and reasonable water service. I&E Statement No. 3 (Water), Direct Testimony of Joseph Kubas, p. 5.

24. With regard to the first step of the wastewater rate increase, the amount of the increase proposed in the Settlement is virtually identical to I&E’s primary litigation position. I&E Statement No. 1-SR (Wastewater), Surrebuttal Testimony of John Zalesky p. 2. I&E’s primary litigation position was to “allow the Company to recover operating expenses and plant claimed in the base rate filing (subject to [certain ratemaking adjustments]) but will not allow the Company to earn a profit” because the Commission found in *McCloskey* that the Company is not providing

adequate and reasonable wastewater service. I&E Statement No. 3 (Wastewater), Direct Testimony of Joseph Kubas p. 5.

25. With regard to the second step of the wastewater rate increase, the amount of the second step of the increase is very close to I&E's secondary litigation position. I&E's secondary litigation position is to allow the Company to recover its costs, together with a return on equity. I&E Statement No. 1-SR (Wastewater), Surrebuttal Testimony of John Zalesky p. 4.

26. The Settlement proposes a proportionate scale-back of the rates proposed in the Company's initial filing. Joint Exhibit 2, Paragraph B.

27. The Settlement proposes that Hidden Valley be required to submit corrected annual reports for 2015-2018, which are prepared or reviewed by a rate consultant prior to submission to the Commission. In addition, for annual reports submitted to the Commission during the period 2019-2023, or until the Company's next rate case (whichever is earlier), Hidden Valley is to have its annual reports prepared or reviewed by a rate consultant. Joint Exhibit 2, Paragraph C.

28. If the Settlement is approved, the Company will use the rate relief to make the improvements ordered in *McCloskey v. Hidden Valley Utility Services, L.P.*, Docket Nos. C-2014-2447138 and C-2014-2447169 ("*McCloskey*"). Tr. 232; HVUS Statement No. 1, Direct Testimony of James M. Kettler (Water), p. 4; HVUS Statement No. 1, Direct Testimony of James M. Kettler (Wastewater), p. 6.

McCloskey

29. An evidentiary hearing was held in *McCloskey* on November 17, 2015. *McCloskey* (September 2016 I.D.) p. 5.

30. The Initial Decision in *McCloskey* was issued in September 2016. *McCloskey* (January 2018 Order) p. 1.

31. The Commission issued its decision in *McCloskey* on January 18, 2018. *McCloskey* (January 2018 Order) p. 68.

32. The Company subsequently filed a Petition for Clarification, Reconsideration and Amendment, and the Commission issued its Order on the merits on May 3, 2018. *McCloskey* (May 2018 Order) p. 34.

33. In *McCloskey*, the Commission found the Company is not providing reasonable and adequate water and wastewater service. *McCloskey* (January 2018 Order) p. 23.

34. In *McCloskey*, the Commission ordered the Company to complete numerous specific tasks, by stated deadlines, to improve service. The Commission's Order included enforcement mechanisms in the event the Company failed to meet those deadlines. *McCloskey* (January 2018 Order) pp. 60-68; *McCloskey* (May 2018 Order) pp. 25-34.

35. The Company has made improvements in the water system since the hearing in *McCloskey*. HVUS Statement No. 1-R, Rebuttal Testimony of James M. Kettler (Water) pp. 8-10, 17, 18-19; Status Reports filed April 18, 2018; May 9, 2018; May 18, 2018; July 19, 2018; September 17, 2018; and November 16, 2018; Tr. 239-242.

36. Nevertheless, some customers continue to experience dirty water. Tr. 65, 70, 99, 110.

37. The Company has made improvements in the wastewater system since the hearing in *McCloskey*. For example, all pumping stations now have back-up pumps and working alarms. HVUS Statement No. 4-R (Wastewater), Rebuttal Testimony of Glenn Fodor, p. 2. In 2016, the Company replaced the pump at the North Summit Lagoon, installed four liquid chlorine pumps

and replaced the flow charge, and installed a new pressure transducer and pump controller for the equalization tank. HVUS Statement No. 1-R (Wastewater), Rebuttal Testimony of James M. Kettler, p. 9. The Company has obtained an engineer's report regarding the wastewater system, and is in the process of implementing the recommendations. Tr. 235-236; HVUS Exhibit JMK-REJ1.

38. The Company is making a good faith attempt to comply with *McCloskey*. Tr. 236-237 and 239-242; HVUS Exhibit JMK-REJ1; HVUS Statement No. 1-R, Rebuttal Testimony of James M. Kettler (Water) pp. 8-10, 17, 18-19; HVUS Statement No. 1-R, Rebuttal Testimony of James M. Kettler (Wastewater), pp. 8-10, 16, 17; HVUS Exhibit JMK-REJ1; Tr. 236-237; HVUS Statement No. 4-R, Rebuttal Testimony of Glenn Fodor (Wastewater), pp. 2, 4; Status Reports filed April 18, 2018; May 9, 2018; May 18, 2018; July 19, 2018; September 17, 2018; and November 16, 2018.

39. *McCloskey* requires Hidden Valley to comply with all recommendations from the engineer's report with regard to its wastewater services on or before January 31, 2019. *McCloskey* (May 2018 Order), Ordering Paragraph 11. That date will precede the date on which a final Commission Order is entered in this case.

APPENDIX B. PROPOSED CONCLUSIONS OF LAW

1. This Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa. C.S. § 1308(d).

2. The Commission's standards for reviewing a non-unanimous settlement are the same as those for deciding a fully contested case. *Pa. Pub. Util. Comm'n v. PECO Energy Company*, Docket Nos. R-00973953 and P-00971265 (Opinion and Order entered December 23, 1997).

3. The Commission's findings of fact must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. A mere "trace of evidence or a suspicion of the existence of a fact" is insufficient. *Norfolk & Western Railway v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

4. Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. 66 Pa. C.S. § 1301.

5. The burden of proving the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a); *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*, 409 A.2d 505 (Pa. Cmwlth. Ct. 1980).

6. While the burden of proof remains with the public utility throughout the rate proceeding, the Commission has stated that where a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. Pub. Util. Comm'n v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Commission Opinion and Order entered July 17, 2008).

7. The Commission must consider the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates. 66 Pa. C.S. § 523.

8. The Commission has the discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds that the service rendered by the public utility is inadequate. 66 Pa. C.S. § 526(a).

9. A denial of rate relief, in whole or in part, is only warranted where the Commission finds serious deficiencies in the utility's service. *Pa. Pub. Util. Comm'n v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409, 415-16 (1986).

10. The deficiencies in Hidden Valley's wastewater service at this time do not rise to the level that would warrant a further reduction in the Company's rate request.

11. The fixing of just and reasonable rates involves a balancing of the investor and the consumer interest. *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

12. The Settlement appropriately balances the interests of the Company and the ratepayer. By combining a modest rate increase with the improvement plan that the Commission provided in *McCloskey*, the Settlement promotes the public interest.

13. The policy of the law should be to encourage good service, not to destroy the utility. *Pa. Pub. Util. Comm'n, et al. v. Lake Latonka Water Company*, 1989 Pa. PUC LEXIS 231 *45 (Recommended Decision of Administrative Law Judge Herskovitz, Final Order entered October 16, 1989).

14. Considering that the Company is presently losing money, and that the Commission has ordered the Company to complete an extensive and expensive improvement plan, a complete denial of rate relief would destroy the Company and ensure that improvements in service will not be made.

15. There is a cost to providing utility service to customers. *Pa. Pub. Util. Comm'n, et al. v. Delaware Sewer Company*, Docket No. R-2014-2452705 (Opinion and Order entered July 30, 2018).

16. “A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.” *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923).

17. Rates that are so low as to destroy the utility are unconstitutional.

18. The rates proposed in the Settlement are just and reasonable, and are supported by substantial evidence.

APPENDIX C. PROPOSED ORDERING PARAGRAPHS

1. That the Joint Petition for Non-Unanimous Settlement is approved.
2. That Hidden Valley Utility Services, L.P. - Water, shall not place into effect the rules, rates and regulations contained in Supplement No. 1 to Tariff Water-Pa. P.U.C. No. 1.
3. That, upon entry of a final Commission Order in this proceeding, Hidden Valley Utility Services, L.P. - Water, is authorized to file water tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein, to produce annual revenues not in excess of \$206,112 or an increase over present revenues of \$65,557.
4. That Hidden Valley Utility Services, L.P.'s water tariffs, tariff supplements and/or tariff revisions, described in Ordering Paragraph 3, may be filed on at least one-day's notice.
5. That Hidden Valley Utility Services, L.P. - Wastewater, shall not place into effect the rules, rates and regulations contained in Supplement No. 1 to Tariff Wastewater-Pa. P.U.C. No. 1.
6. That, upon entry of a final Commission Order in this proceeding, Hidden Valley Utility Services, L.P.- Wastewater, is authorized to file wastewater tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein, to produce annual revenues not in excess of \$375,866 or an increase over present revenues of \$82,227.
7. That Hidden Valley Utility Services, L.P.'s wastewater tariffs, tariff supplements and/or tariff revisions, described in Ordering Paragraph 6, may be filed on at least one-day's notice.
8. That, upon submission of Hidden Valley's report and verification from its engineer stating that all repairs, modifications and improvements to Hidden Valley's wastewater system have been completed, as required by Ordering Paragraphs 11 and 19 of the Commission's May 3, 2018 Order on Reconsideration in *McCloskey v. Hidden Valley Utility Services, L.P.*, Docket Nos.

C-2014-2447138 and C-2014-2447169, Hidden Valley Utility Services, L.P., is authorized to file wastewater tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein, to produce annual revenues not in excess of \$439,462 or an increase over present revenues of \$145,824.

9. That the wastewater tariffs, tariff supplements and/or tariff revisions described in Ordering Paragraph 8 may be filed on at least one-day's notice.

10. That, within six months after the entry of the Commission's final order in this proceeding, Hidden Valley Utility Services, L.P shall submit to the Commission corrected annual reports for the years 2015-2018. These annual reports will be prepared or reviewed by a rate consultant prior to submission to the Commission.

11. That, during the period 2019-2023 or until its next rate case, whichever is earlier, Hidden Valley Utility Services, L.P. shall have its annual report prepared or reviewed by a rate consultant prior to submission to the Commission.

12. That, within twelve months after the entry of the Commission's final order in this proceeding, Hidden Valley Utility Services, L.P shall complete an independent financial audit. The Company shall file a notice at this docket number, and serve a copy of said notice on all parties to this proceeding, stating that the independent financial audit has been completed.

13. That the following complaints against the water rate increase shall be dismissed:

<u>Complainant(s)</u>	<u>Docket Number</u>
Office of Consumer Advocate	C-2018-3001841
Hidden Valley Foundation, Inc.	C-2018-3003528
Robert J. Kollar	C-2018-3003370
Gerry and Melissa Pindroh	C-2018-3001787
Debra J. Simpson	C-2018-3002198
Tom and Shelley Conroy	C-2018-3002468
John Cupps	C-2018-3002468
David Oster	C-2018-3002470
Toni Gorenc	C-2018-3002480

David Brodland	C-2018-3002485
Robert and Katherine Bair	C-2018-3002587
Jerome and Barbary Cypher	C-2018-3002671
Jon and Nina Lewis	C-2018-3002701
Celeste Emrick	C-2018-3003020

14. That the following complaints against the wastewater rate increase shall be dismissed:

<u>Complainant(s)</u>	<u>Docket Number</u>
Office of Consumer Advocate	C-2018-3001843
Hidden Valley Foundation, Inc.	C-2018-3003529
Robert J. Kollar	C-2018-3003372
Tom and Shelley Conroy	C-2018-3002200
John Cupps	C-2018-3002459
David Oster	C-2018-3002475
Toni Gorenc	C-2018-3002481
David Brodland	C-2018-3002487
Jerome and Barbara Cypher	C-2018-3002683
Jon and Nina Lewis	C-2018-3002698

15. That upon filing of the notice required by Ordering Paragraph 12, the proceedings at Docket Numbers R-2018-3001306 and R-2018-3001307 shall be marked closed.

**APPENDIX D. JOINT PETITION FOR APPROVAL OF NON-UNANIMOUS
SETTLEMENT**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DEPUTY CHIEF ADMINISTRATIVE LAW
JUDGE MARK A. HOYER
AND
ADMINISTRATIVE LAW JUDGE
KATRINA L. DUNDERDALE**

Pennsylvania Public Utility Commission :
v. : Docket No. R-2018-3001307
Hidden Valley Utility Services, L.P. - :
Wastewater :

and

Pennsylvania Public Utility Commission :
v. : Docket No. R-2018-3001306
Hidden Valley Utility Services, L.P. -- Water :

**JOINT PETITION FOR APPROVAL OF
NON-UNANIMOUS SETTLEMENT**

Hidden Valley Utility Services, L.P. (“Hidden Valley”) and the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement (“I&E”), parties to the above-captioned proceeding (hereinafter collectively referred to as the “Joint Petitioners”), hereby join in this “Joint Petition for Approval of Non-Unanimous Settlement” (“Settlement”) and respectfully request that the Honorable Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law

Judge Katrina L. Dunderdale (the “ALJs”) and the Pennsylvania Public Utility Commission (“Commission”) approve this Settlement without modification.

In Support of this Settlement, the Joint Petitioners state the following:

SETTLEMENT TERMS

A. Revenue Requirement

(1) Following entry of a Commission final order approving this Settlement, Hidden Valley will file compliance tariffs as follows:

(a) A water tariff with new rates designed to produce \$65,557 in additional annual operating revenue over present rates;¹ and

(b) A wastewater tariff with new rates designed to produce \$82,227 in additional annual operating revenue over present rates.

(2) In addition, upon submission of Hidden Valley’s report and verification from its engineer stating that all repairs, modifications and improvements to Hidden Valley’s wastewater system have been completed, as required by Ordering Paragraphs 11 and 19 of the Commission’s May 3, 2018 Order on Reconsideration in *McCloskey v. Hidden Valley Utility Services, L.P.*, Docket Nos. C-2014-2447138 and C-2014-2447169, Hidden Valley will file a compliance tariff designed to produce a total of \$145,824 in additional annual operating revenue over present rates.

B. Rate Design

To implement the revenue requirements stated above, the rates proposed by Hidden Valley Utility Services, L.P. shall be scaled back proportionally, as shown on Appendix A.

¹ Although this is a “black box” settlement, I&E’s primary and secondary litigation positions, in addition to the evidence introduced by Hidden Valley, support the agreed-to revenue requirement figures.

C. Annual reports

(1) Hidden Valley will correct its annual reports for the years 2015-2018. Specifically, Hidden Valley will have these annual reports prepared or reviewed by a rate consultant prior to submission to the Commission. These corrected annual reports will be filed within six months after the entry of a final Commission Order in this proceeding.

(2) For annual reports submitted to the Commission during the period 2019-2023, or until its next rate case, whichever is earlier, Hidden Valley shall have its annual reports prepared or reviewed by a rate consultant.

CONDITIONS OF SETTLEMENT

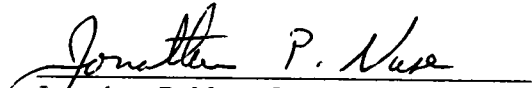
Joint Petitioners acknowledge that the Settlement reflects a compromise of competing positions and does not necessarily reflect any party's position with respect to any issues raised in this proceeding. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

REQUEST FOR RELIEF

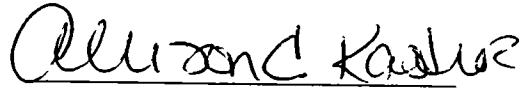
WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that the Honorable Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Katrina L. Dunderdale and the Commission approve this Settlement as submitted including all terms and conditions thereof without modification.

[Signatures appear on next page.]

Respectfully submitted,

Handwritten signature of Jonathan P. Nase in cursive script, underlined.

Jonathan P. Nase, Esq.
Counsel for *Hidden Valley Utility Services, L.P.*

Handwritten signature of Allison C. Kaster in cursive script, underlined.

Allison C. Kaster, Esq.
Counsel for the *Bureau of Investigation and Enforcement*

APPENDIX A

Hidden Valley Utility Services, L.P.
R-2018-3001306
Water

Application of Present Rates to Consumption Analysis
For The Twelve Months ending December 31, 2017

Application of Proposed Rates to Consumption Analysis
For The Twelve Months ending December 31, 2017

Meter Size	Rate Block	Number Of Bills	Total Consumption	Rates	Billing Revenue	Meter Size	Rate Block	Number Of Bills	Total Consumption	Rates	Billing Revenue	Percent Increase	Original Percent Increase	Percent Of Original
Residential Quarterly						Residential Quarterly								
5/8		4,409	0	\$12.00	\$52,908	5/8		4,409	0	\$19.00	\$83,771	58.3%	125.0%	16.7%
3/4		24	0	\$12.00	\$288	3/4		24	0	\$19.00	\$456	58.3%	125.0%	16.7%
1		4	0	\$12.00	\$48	1		4	0	\$19.00	\$76	58.3%	125.0%	16.7%
Bills and Customer Charges		4,437	0		\$53,244	Bills and Customer Charges		4,437	0		\$84,303	58.3%	125.0%	16.7%
First	4,000		89,788	\$0.6970	\$62,502	First	4,000		89,788	\$0.9380	\$84,221	34.6%	89.1%	38.7%
Over	4,000		3,225	\$0.5750	\$1,854	Over	4,000		3,225	\$0.9380	\$3,025	63.1%	129.0%	48.9%
Residential Usage		93,013			\$64,437	Residential Usage		93,013			\$87,246	35.4%	90.5%	39.1%
TOTAL RESIDENTIAL		4,437	93,013		\$117,681	TOTAL RESIDENTIAL		4,437	93,013		\$171,519	45.8%	106.1%	43.1%
Commercial Monthly						Commercial Quarterly								
5/8		72	0	\$12.00	\$864	5/8		72	0	\$19.00	\$1,368	58.3%	125.0%	46.7%
3/4		4	0	\$12.00	\$48	3/4		4	0	\$19.00	\$76	58.3%	125.0%	16.7%
1		0	0	\$12.00	\$0	1		0	0	\$19.00	\$0			
1 1/2		20	0	\$12.00	\$240	1 1/2		20	0	\$19.00	\$380	58.3%	125.0%	16.7%
2		23	0	\$12.00	\$276	1 1/2		23	0	\$19.00	\$437	58.3%	125.0%	16.7%
3		0	0	\$12.00	\$0	1 1/2		0	0	\$19.00	\$0			
Bills and Customer Charges		119	0		\$1,428	Bills and Customer Charges		119	0		\$2,261	58.3%	125.0%	16.7%
First	10,000		12,572	\$0.6970	\$8,763	First	10,000		12,572	\$0.9380	\$11,793	34.6%	89.1%	38.7%
Next	23,300		9,933	\$0.5750	\$5,711	Next	23,300		9,933	\$0.9380	\$9,317	63.1%	129.6%	48.7%
Commercial Usage		22,505			\$14,474	Commercial Usage		22,505			\$21,110	45.8%	105.2%	43.6%
TOTAL COMMERCIAL		119	22,505		\$15,902	TOTAL COMMERCIAL		119	22,505		\$23,371	17.0%	107.0%	43.9%
Availability						Availability								
		72	0	\$9.00	\$648			72	0	\$15.00	\$1,080	66.7%	125.0%	53.3%
Total Availability		72	0		\$648	Total Availability		72	0		\$1,080	66.7%	125.0%	53.3%
Private Fire						Private Fire								
		2	180	\$30.00	\$5,400			2	180	\$48.00	\$8,640	60.0%	125.0%	48.0%
		4	16	\$42.00	\$1,672			4	16	\$67.00	\$1,072	59.5%	125.0%	47.6%
		6	4	\$63.00	\$378			6	4	\$100.00	\$600	58.7%	125.0%	47.0%
Total Private Fire		20	200		\$7,450	Total Private Fire		20	200		\$10,312	60.0%	125.0%	47.0%
TOTAL REVENUE		4,628	115,538		\$140,555	TOTAL REVENUE		4,628	115,538		\$206,112	46.6%	107.2%	43.5%
										Increase	\$65,557			

Hidden Valley Utility Services, L.P.
R-2018-3001306
Water Bill Comparison

Company 5/8" Monthly Bill Comparison

	<u>Usage</u> <u>Gallons</u>	<u>Current</u> <u>Bill DSIC</u>	<u>Increase</u>	<u>Company</u> <u>Proposed</u> <u>Bill</u>	<u>Percent</u> <u>Increase</u>
	(A)	(B)	(C)	(D)	(E)
1	0	\$12.00	\$7.00	\$19.00	58.3%
2	1,000	\$18.97	\$9.41	\$28.38	49.6%
3	2,000	\$25.94	\$11.82	\$37.76	45.6%
4	2,100	\$26.64	\$12.06	\$38.70	45.3%
5	3,000	\$32.91	\$14.23	\$47.14	43.2%
6	4,000	\$39.88	\$16.64	\$56.52	41.7%
7	5,000	\$46.85	\$19.05	\$65.90	40.7%
8	6,000	\$53.82	\$21.46	\$75.28	39.9%
9	7,000	\$60.79	\$23.87	\$84.66	39.3%
10	8,000	\$67.76	\$26.28	\$94.04	38.8%
11	9,000	\$74.73	\$28.69	\$103.42	38.4%
12	10,000	\$81.70	\$31.10	\$112.80	38.1%
13	11,000	\$88.67	\$33.51	\$122.18	37.8%
14	12,000	\$95.64	\$35.92	\$131.56	37.6%
15	13,000	\$102.61	\$38.33	\$140.94	37.4%
16	14,000	\$109.58	\$40.74	\$150.32	37.2%
17	15,000	\$116.55	\$43.15	\$159.70	37.0%
18	16,000	\$123.52	\$45.56	\$169.08	36.9%
19	17,000	\$130.49	\$47.97	\$178.46	36.8%
20	18,000	\$137.46	\$50.38	\$187.84	36.7%
21	19,000	\$144.43	\$52.79	\$197.22	36.6%
22	20,000	\$151.40	\$55.20	\$206.60	36.5%

Hidden Valley Utility Services, L.P.
R-2018-3001307
Wastewater

Application of Present Rates to Consumption Analysis
 For The Twelve Months ending December 31, 2017

Application of Proposed Rates to Consumption Analysis
 For The Twelve Months ending December 31, 2017

Meter Size	Rate Block	Number Of Bills	Total Consumption	Rates	Billing Revenue	Meter Size	Rate Block	Number Of Bills	Total Consumption	Rates	Billing Revenue	Percent Increase	Original Percent Increase	Percent Of Original	
Residential Quarterly						Residential Quarterly									
5/8		4,409	0	\$27.00	\$119,043	5/8	0	4,409	0	\$34.00	\$149,906	25.9%	61.1%	42.4%	
3/4		24	0	\$27.00	\$648	3/4	0	24	0	\$34.00	\$816	25.9%	61.1%	42.4%	
1		4	0	\$27.00	\$108	1	0	4	0	\$34.00	\$136	25.9%	61.1%	42.4%	
Bills and Customer Charges		4,437	0		\$119,799	Bills and Customer Charges		4,437	0		\$150,858	25.9%	61.1%	42.4%	
First	4,000		89,788	\$1,5600	\$140,069	First	4,000		89,788	\$1,9000	\$177,780	26.9%	61.5%	43.0%	
Over	4,000		3,225	\$1,2520	\$4,038	Over	4,000		3,225	\$1,9000	\$6,386	58.1%	101.3%	57.4%	
Residential Usage			93,013		\$144,107	Residential Usage			93,013		\$184,166	27.8%	62.7%	44.3%	
TOTAL RESIDENTIAL		4,437	93,013		\$263,906	TOTAL RESIDENTIAL		4,437	93,013		\$335,024	26.9%	62.0%	43.5%	
Commercial Monthly						Commercial Quarterly									
5/8		64	0	\$27.00	\$1,728	5/8		72	0	\$34.00	\$2,440	41.7%	81.3%	51.3%	
3/4		4	0	\$27.00	\$108	3/4		4	0	\$34.00	\$136	25.9%	61.1%	42.4%	
1		0	0	\$27.00	\$0	1		0	0	\$34.00	\$0				
1 1/2		20	0	\$27.00	\$540	1 1/2		20	0	\$34.00	\$680	25.9%	61.1%	42.4%	
2		23	0	\$27.00	\$621	1 1/2		23	0	\$34.00	\$782	25.9%	61.1%	42.4%	
3		0	0	\$27.00	\$0	1 1/2		0	0	\$34.00	\$0				
Bills and Customer Charges		111	0		\$2,997	Bills and Customer Charges		119	0		\$4,046	35.0%	72.7%	48.1%	
First	10,000		10,564	\$1,5600	\$16,480	First	10,000		10,564	\$1,9000	\$20,917	26.9%	61.5%	43.0%	
Next	23,300		7,329	\$1,2520	\$9,176	Next	23,300		7,329	\$1,9000	\$14,511	58.1%	101.3%	57.4%	
Commercial Usage			17,893		\$25,656	Commercial Usage			17,893		\$35,428	38.1%	75.8%	50.3%	
TOTAL COMMERCIAL		111	17,893		\$28,653	TOTAL COMMERCIAL		119	17,893		\$39,474	37.8%	75.4%	50.1%	
Availability						Availability									
		72	0	\$15.00	\$1,080			72	0	\$19.00	\$1,368	26.7%	62.0%	43.0%	
Total Availability		72	0		\$1,080	Total Availability		72	0		\$1,368	26.7%	62.0%	43.0%	
TOTAL REVENUE		4,620	110,906		\$293,639	TOTAL REVENUE		4,620	110,906		\$375,866	28.0%	63.1%	44.3%	
											Increase				
															\$82,227

Hidden Valley Utility Services, L.P.
R-2018-3001307
Sewer Bill Comparison - Phase I

Usage	Quarterly Present	Increase	Quarterly Settlement	Percent Increase
0	\$27.00	\$7.00	\$34.00	25.9%
1,000	\$42.60	\$11.20	\$53.80	26.3%
2,000	\$58.20	\$15.40	\$73.60	26.5%
2,100	\$59.76	\$15.82	\$75.58	26.5%
3,000	\$73.80	\$19.60	\$93.40	26.6%
4,000	\$89.40	\$23.80	\$113.20	26.6%
5,000	\$105.00	\$28.00	\$133.00	26.7%
6,000	\$120.60	\$32.20	\$152.80	26.7%
7,000	\$136.20	\$36.40	\$172.60	26.7%
8,000	\$151.80	\$40.60	\$192.40	26.7%
9,000	\$167.40	\$44.80	\$212.20	26.8%
10,000	\$183.00	\$49.00	\$232.00	26.8%
11,000	\$198.60	\$53.20	\$251.80	26.8%
12,000	\$214.20	\$57.40	\$271.60	26.8%
13,000	\$229.80	\$61.60	\$291.40	26.8%
14,000	\$245.40	\$65.80	\$311.20	26.8%
15,000	\$261.00	\$70.00	\$331.00	26.8%
16,000	\$276.60	\$74.20	\$350.80	26.8%
17,000	\$292.20	\$78.40	\$370.60	26.8%
18,000	\$307.80	\$82.60	\$390.40	26.8%
19,000	\$323.40	\$86.80	\$410.20	26.8%
20,000	\$339.00	\$91.00	\$430.00	26.8%

Hidden Valley Utility Services, L.P.
R-2018-3001307
Wastewater Phase II

Application of Present Rates to Consumption Analysis
 For The Twelve Months ending December 31, 2017

Application of Proposed Rates to Consumption Analysis
 For The Twelve Months ending December 31, 2017

Meter Size	Rate Block	Number Of Bills	Total Consumption	Rates	Billing Revenue
Residential Quarterly					
5/8		1,109	0	\$27.00	\$119,013
3/1		21	0	\$27.00	\$618
1		1	0	\$27.00	\$108
Bills and Customer Charges			4,137	0	\$119,799
First	1,000		89,788	\$1,5600	\$110,069
Over	1,000		3,225	\$1,2520	\$1,038
Residential Usage			93,013		\$111,107
TOTAL RESIDENTIAL			4,137	93,013	\$263,906
Commercial Monthly					
5/8		61	0	\$27.00	\$1,728
3/1		1	0	\$27.00	\$108
1		0	0	\$27.00	\$0
1 1/2		20	0	\$27.00	\$850
2		23	0	\$27.00	\$621
3		0	0	\$27.00	\$0
Bills and Customer Charges			111	0	\$2,997
First	10,000		10,561	\$1,5600	\$16,480
Next	23,300		7,329	\$1,2520	\$9,176
Commercial Usage			17,893		\$25,656
TOTAL COMMERCIAL			111	17,893	\$28,653
Availability					
			72	0	\$15,080
Total Availability			72	0	\$1,080
TOTAL REVENUE			4,620	110,906	\$293,639

Meter Size	Rate Block	Number Of Bills	Total Consumption	Rates	Billing Revenue	Percent Increase	Original Percent Increase	Percent Of Original
Residential Quarterly								
5/8		0	1,109	0	\$10.00	\$176,360	48.1%	61.1%
3/1		0	21	0	\$10.00	\$960	48.1%	61.1%
1		0	1	0	\$10.00	\$160	48.1%	61.1%
Bills and Customer Charges			4,137	0	\$177,480	48.1%	61.1%	78.8%
First	1,000		89,788	\$2,3050	\$206,961	47.8%	61.5%	77.7%
Over	1,000		3,225	\$2,3050	\$7,431	81.1%	101.3%	83.0%
Residential Usage			93,013		\$214,395	48.8%	62.7%	77.8%
TOTAL RESIDENTIAL			4,137	93,013	\$391,875	48.5%	62.0%	78.2%
Commercial Quarterly								
5/8			72	0	\$40.00	\$2,880	66.7%	81.3%
3/1			1	0	\$40.00	\$160	48.1%	61.1%
1			0	0	\$40.00	\$0		
1 1/2			20	0	\$40.00	\$800	48.1%	61.1%
1 1/2			23	0	\$40.00	\$920	48.1%	61.1%
1 1/2			0	0	\$40.00	\$0		
Bills and Customer Charges			119	0	\$1,760	58.8%	72.7%	80.9%
First	10,000		10,561	\$2,3050	\$21,350	47.8%	61.5%	77.7%
Next	23,300		7,329	\$2,3050	\$16,893	81.1%	101.3%	83.0%
Commercial Usage			17,893		\$11,213	60.8%	75.8%	80.2%
TOTAL COMMERCIAL			119	17,893	\$16,003	60.6%	75.1%	80.3%
Availability								
			72	0	\$22.00	\$1,584	16.7%	62.0%
Total Availability			72	0	\$1,584	16.7%	62.0%	75.3%
TOTAL REVENUE			4,628	110,906	\$439,462	49.7%	63.1%	78.6%
					Increase	\$145,821		

Hidden Valley Utility Services, L.P.
R-2018-3001307
Sewer Bill Comparison Phase II

Usage	Quarterly Present	Increase	Quarterly Settlement	Percent Increase
0	\$34.00	\$6.00	\$40.00	17.6%
1,000	\$53.80	\$9.25	\$63.05	17.2%
2,000	\$73.60	\$12.50	\$86.10	17.0%
2,100	\$75.58	\$12.83	\$88.41	17.0%
3,000	\$93.40	\$15.75	\$109.15	16.9%
4,000	\$113.20	\$19.00	\$132.20	16.8%
5,000	\$133.00	\$22.25	\$155.25	16.7%
6,000	\$152.80	\$25.50	\$178.30	16.7%
7,000	\$172.60	\$28.75	\$201.35	16.7%
8,000	\$192.40	\$32.00	\$224.40	16.6%
9,000	\$212.20	\$35.25	\$247.45	16.6%
10,000	\$232.00	\$38.50	\$270.50	16.6%
11,000	\$251.80	\$41.75	\$293.55	16.6%
12,000	\$271.60	\$45.00	\$316.60	16.6%
13,000	\$291.40	\$48.25	\$339.65	16.6%
14,000	\$311.20	\$51.50	\$362.70	16.5%
15,000	\$331.00	\$54.75	\$385.75	16.5%
16,000	\$350.80	\$58.00	\$408.80	16.5%
17,000	\$370.60	\$61.25	\$431.85	16.5%
18,000	\$390.40	\$64.50	\$454.90	16.5%
19,000	\$410.20	\$67.75	\$477.95	16.5%
20,000	\$430.00	\$71.00	\$501.00	16.5%

APPENDIX E. SETTLEMENT TABLES

Hidden Valley Utility Services, L.P.

R-2018-3001306

Water Bill Comparison

Company 5/8" Quarterly Bill Comparison

<u>Line No.</u>	<u>Usage Gallons</u> (A)	<u>Current Bill</u> (B)	<u>Company Original Proposed Bill</u> (C)	<u>Company Original Proposed Increase</u> (D)	<u>Company Original Proposed % Increase</u> (E)	<u>Settlement Bill</u> (F)	<u>Settlement Increase</u> (G)	<u>Settlement Percent Increase</u> (H)
1	0	\$ 12.00	\$ 27.00	\$ 15.00	125.0%	\$ 19.00	\$ 7.00	58.3%
2	1,000	18.97	40.20	21.23	111.9%	28.38	9.41	49.6%
3	2,000	25.94	53.40	27.46	105.9%	37.76	11.82	45.6%
4	2,100	26.64	54.72	28.08	105.4%	38.70	12.06	45.3%
5	3,000	32.91	66.60	33.69	102.4%	47.14	14.23	43.2%
6	4,000	39.88	79.80	39.92	100.1%	56.52	16.64	41.7%
7	5,000	46.85	93.00	46.15	98.5%	65.90	19.05	40.7%
8	6,000	53.82	106.20	52.38	97.3%	75.28	21.46	39.9%
9	7,000	60.79	119.40	58.61	96.4%	84.66	23.87	39.3%
10	8,000	67.76	132.60	64.84	95.7%	94.04	26.28	38.8%
11	9,000	74.73	145.80	71.07	95.1%	103.42	28.69	38.4%
12	10,000	81.70	159.00	77.30	94.6%	112.80	31.10	38.1%
13	11,000	88.67	172.20	83.53	94.2%	122.18	33.51	37.8%
14	12,000	95.64	185.40	89.76	93.9%	131.56	35.92	37.6%
15	13,000	102.61	198.60	95.99	93.5%	140.94	38.33	37.4%
16	14,000	109.58	211.80	102.22	93.3%	150.32	40.74	37.2%
17	15,000	116.55	225.00	108.45	93.1%	159.70	43.15	37.0%
18	16,000	123.52	238.20	114.68	92.8%	169.08	45.56	36.9%
19	17,000	130.49	251.40	120.91	92.7%	178.46	47.97	36.8%
20	18,000	137.46	264.60	127.14	92.5%	187.84	50.38	36.7%
21	19,000	144.43	277.80	133.37	92.3%	197.22	52.79	36.6%
22	20,000	151.40	291.00	139.60	92.2%	206.60	55.20	36.5%

Hidden Valley Utility Services, L.P.
R-2018-3001307
Quarterly Sewer Bill Comparison - Phase I

Line No.	Usage (A)	Quarterly Present	Company Original Proposed	Company Original Proposed	Company Original Proposed	Phase I Settlement	Phase I Settlement	Phase I Settlement
		Bill (B)	Bill (C)	Increase (D)	% Increase (E)	Bill (F)	Increase (G)	Increase (H)
1	-	\$ 27.00	\$ 43.50	\$ 16.50	61.1%	\$ 34.00	\$ 7.00	25.9%
2	1,000	42.60	68.70	26.10	61.3%	53.80	11.20	26.3%
3	2,000	58.20	93.90	35.70	61.3%	73.60	15.40	26.5%
4	2,100	59.76	96.42	36.66	61.3%	75.58	15.82	26.5%
5	3,000	73.80	119.10	45.30	61.4%	93.40	19.60	26.6%
6	4,000	89.40	144.30	54.90	61.4%	113.20	23.80	26.6%
7	5,000	105.00	169.50	64.50	61.4%	133.00	28.00	26.7%
8	6,000	120.60	194.70	74.10	61.4%	152.80	32.20	26.7%
9	7,000	136.20	219.90	83.70	61.5%	172.60	36.40	26.7%
10	8,000	151.80	245.10	93.30	61.5%	192.40	40.60	26.7%
11	9,000	167.40	270.30	102.90	61.5%	212.20	44.80	26.8%
12	10,000	183.00	295.50	112.50	61.5%	232.00	49.00	26.8%
13	11,000	198.60	320.70	122.10	61.5%	251.80	53.20	26.8%
14	12,000	214.20	345.90	131.70	61.5%	271.60	57.40	26.8%
15	13,000	229.80	371.10	141.30	61.5%	291.40	61.60	26.8%
16	14,000	245.40	396.30	150.90	61.5%	311.20	65.80	26.8%
17	15,000	261.00	421.50	160.50	61.5%	331.00	70.00	26.8%
18	16,000	276.60	446.70	170.10	61.5%	350.80	74.20	26.8%
19	17,000	292.20	471.90	179.70	61.5%	370.60	78.40	26.8%
20	18,000	307.80	497.10	189.30	61.5%	390.40	82.60	26.8%
21	19,000	323.40	522.30	198.90	61.5%	410.20	86.80	26.8%
22	20,000	339.00	547.50	208.50	61.5%	430.00	91.00	26.8%

Hidden Valley Utility Services, L.P.
R-2018-3001307
Quarterly Sewer Bill Comparison Phase II

Line No.	Usage (A)	Present	Company	Company	Company	Phase II	Phase II	Phase II
		Quarterly Bill (B)	Original Proposed Bill (C)	Original Proposed Increase (D)	Original Proposed % Increase (E)	Settlement Bill (F)	Settlement Increase (G)	Settlement Percent Increase (H)
1	-	\$ 27.00	\$ 43.50	\$ 16.50	61.1%	\$ 40.00	\$ 13.00	48.1%
2	1,000	42.60	68.70	26.10	61.3%	63.05	20.45	48.0%
3	2,000	58.20	93.90	35.70	61.3%	86.10	27.90	47.9%
4	2,100	59.76	96.42	36.66	61.3%	88.41	28.65	47.9%
5	3,000	73.80	119.10	45.30	61.4%	109.15	35.35	47.9%
6	4,000	89.40	144.30	54.90	61.4%	132.20	42.80	47.9%
7	5,000	105.00	169.50	64.50	61.4%	155.25	50.25	47.9%
8	6,000	120.60	194.70	74.10	61.4%	178.30	57.70	47.8%
9	7,000	136.20	219.90	83.70	61.5%	201.35	65.15	47.8%
10	8,000	151.80	245.10	93.30	61.5%	224.40	72.60	47.8%
11	9,000	167.40	270.30	102.90	61.5%	247.45	80.05	47.8%
12	10,000	183.00	295.50	112.50	61.5%	270.50	87.50	47.8%
13	11,000	198.60	320.70	122.10	61.5%	293.55	94.95	47.8%
14	12,000	214.20	345.90	131.70	61.5%	316.60	102.40	47.8%
15	13,000	229.80	371.10	141.30	61.5%	339.65	109.85	47.8%
16	14,000	245.40	396.30	150.90	61.5%	362.70	117.30	47.8%
17	15,000	261.00	421.50	160.50	61.5%	385.75	124.75	47.8%
18	16,000	276.60	446.70	170.10	61.5%	408.80	132.20	47.8%
19	17,000	292.20	471.90	179.70	61.5%	431.85	139.65	47.8%
20	18,000	307.80	497.10	189.30	61.5%	454.90	147.10	47.8%
21	19,000	323.40	522.30	198.90	61.5%	477.95	154.55	47.8%
22	20,000	339.00	547.50	208.50	61.5%	501.00	162.00	47.8%