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September 6, 2019

**VIA ELECTRONIC FILING**

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

RE: Community Utilities of Pennsylvania Inc. Water & Wastewater Divisions; Docket Nos. R-2019-3008947, R-2019-3008948, C-2019-3009591, C-2019-3009592, C-2019-3011086 and C-2019-3011091; **JOINT PETITION FOR FULL SETTLEMENT OF RATE PROCEEDING**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Joint Petition for Full Settlement of Rate Proceeding in the above-captioned proceeding.

Copies have been served in accordance with the attached Certificate of Service. If you have any questions regarding this filing, please do not hesitate to contact me.

Very truly yours,

Thomas J. Sniscak (Attorney ID No. 33891)  
Whitney E. Snyder (Attorney ID No. 316625)  
Bryce R. Beard (Attorney ID No. 325837)

*Counsel for Community Utilities of Pennsylvania Inc.*

WES/das/jld

Enclosure

cc: Honorable F. Joseph Brady (via electronic mail and first class mail)  
Per Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party). Paper copies of this submission will be mailed on Monday, August 5, 2019.

### BY ELECTRONIC AND FIRST CLASS MAIL

Allison C. Kaster  
Deputy Chief Prosecutor  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
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Harrisburg, PA 17120  
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Christine Maloni Hoover, Esquire  
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Thomas J. Sniscak  
Whitney E. Snyder  
Bryce R. Beard

Dated this 6<sup>th</sup> day of September, 2019

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission (water)	:	R-2019-3008947
Office of Consumer Advocate	:	C-2019-3009591
Gary and Mary Kutzelman	:	C-2019-3011086

v.

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Community Utilities of Pennsylvania, Inc. (water) :

and

Pennsylvania Public Utility Commission	:	
(wastewater)	:	R-2019-3008948
Office of Consumer Advocate	:	C-2019-3009592
Gary and Mary Kutzelman	:	C-2019-3011091

v.

Community Utilities of Pennsylvania, Inc.  
(wastewater) :

**JOINT PETITION FOR FULL SETTLEMENT  
OF RATE PROCEEDING**

**TO ADMINISTRATIVE LAW JUDGE F. JOSEPH BRADY:**

**I. INTRODUCTION**

Community Utilities of Pennsylvania Inc. Water and Wastewater Divisions (“CUPA” or “Company”), the Bureau of Investigation & Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), and the Office of Consumer Advocate (“OCA”), by their attorneys and collectively referred to as “Joint Petitioners,” join in this Joint Petition for Full Settlement of Rate Proceeding (“Settlement”) and respectfully request that Administrative Law Judge Joseph F. Brady (“ALJ Brady” or “ALJ”) and the Commission expeditiously approve

the Settlement as set forth below. All active parties<sup>1</sup> in this proceeding have agreed to the Settlement.

## II. HISTORY OF THE PROCEEDINGS

1. On April 1, 2019, Community Utilities of Pennsylvania Inc. (CUPA), filed Supplement No. 5 to Tariff Water–Pa. P.U.C. No. 1 to become effective June 1, 2019. The subject tariff supplement would increase CUPA’s total annual operating revenues for water service by approximately \$362,019, or 26.34%.

2. Also on April 1, 2019, Community Utilities of Pennsylvania Inc. – Wastewater Division (CUPA-WD), filed Supplement No. 3 to Tariff Wastewater–Pa. P.U.C. No. 1 to become effective June 1, 2019. The subject tariff supplement would increase CUPA-WD’s total annual operating revenues for wastewater service by approximately \$378,770, or 20.8%.

3. On May 1, 2019, the Office of Consumer Advocate (OCA) filed formal Complaints, Public Statements, Verifications, and Notices of Appearance on behalf of Christine Hoover, Esq. The Complaints were docketed at C-2019-3009591 and C-2019-3009592.

4. By Orders entered May 9, 2019, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of rates, rules, and regulations contained in CUPA’s proposed Supplement No. 5 to Tariff Water–Pa. P.U.C. No. 1 and CUPA-WD’s proposed Supplement No. 3 to Tariff Wastewater–Pa. P.U.C. No. 1. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), both Tariffs were suspended by operation of law until January 1, 2020, unless permitted by Commission Order to

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<sup>1</sup> Two CUPA customer[s] filed Formal Complaints against the Company’s proposed rate increase. These customers reside at the same service address. However, the customers did not attend the Prehearing Conference, did not file testimony, and did not otherwise actively participate in this matter. As indicated below, the OCA will serve a copy of the Settlement on the inactive customer complainants.

become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of the existing rates, rules, and regulations of CUPA and CUPA-WD. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

5. In accordance with the Commission's May 9, 2019 Order, the matter was assigned to Administrative Law Judge F. Joseph Brady.

6. On May 14, 2019, and May 15, 2019 a Notice and Prehearing Conference Order were issued, respectively, scheduling an initial prehearing conference for Tuesday, May 28, 2019 at 10:00 a.m.

7. On May 20, 2019, CUPA filed compliance tariffs that suspended Supplement Nos. 3 and 5 until January 1, 2019.

8. On May 24, 2019, Prehearing Memoranda were filed by CUPA, the OCA, and the Bureau of Investigation and Enforcement (BIE).

9. A dual location Prehearing Conference was held on May 24, 2019. Counsel for CUPA, the OCA, and the BIE participated.

10. On May 28, 2019, Allison C. Kaster, Esquire, filed a Notice of Appearance on behalf of the BIE.

11. On June 4, 2019, Prehearing Order No. 2 was issued memorializing the matters decided and agreed upon by the parties attending the May 28, 2019 Prehearing Conference.

12. On or about June 25, 2019, Gary and Mary Kutzelman filed a Formal Complaint against CUPA's proposed rate increases at Docket Nos. C-2019-3011086 and C-2019-3011091.

13. On July 15, 2019, Public Input Hearings were held at the Penn Estates Community Center in East Stroudsburg, PA at 1:00 p.m. and the Hanover Township Community Center in Bethlehem, PA at 6:00 p.m.

14. On August 21, 2019, CUPA informed the ALJ that the Joint Petitioners had reached a settlement in full of these proceedings and that they agreed to waive cross examination and admit all pre-served testimony, including the direct, rebuttal, and surrebuttal testimony of the Joint Petitioners, and exhibits into the record by stipulation.

15. On August 22, 2019, CUPA file a Motion for Protective Order. The ALJ granted CUPA's Motion and issued the Protective Order on August 22, 2019.

16. On August 22, 2019, a hearing was held for the purpose of admitting by stipulation the parties' testimony and exhibits.

17. The Joint Petitioners held numerous settlement discussions over the course of this proceeding. As a result of those discussions and the efforts of the Joint Petitioners to examine the issues in the proceeding, the Joint Petitioners have been able to agree to the Settlement.

18. The Joint Petitioners are in full agreement that the Settlement is in the best interests of CUPA and its customers, is therefore in the public interest, and establishes rates which are just and reasonable under Chapter 13 of the Public Utility Code.

### **III. THE SETTLEMENT**

19. The Company, I&E, and the OCA engaged in discussions to determine if, consistent with the Commission's policy to "encourage settlements," stated at 52 Pa. Code §5.231(a), a settlement was possible. After extensive discovery by the statutory parties, CUPA, I&E, and OCA engaged in a series of settlement negotiations. The settlement provided by the Joint Petition is the product of those negotiations, representing give-and-take by all Parties. The settlement is a typical

“black box” settlement;<sup>2</sup> that is, without admission on any particular issue though the terms agreed to are enforceable upon approval by the Commission. The Joint Petitioners agree that this settlement is a reasonable resolution of competing positions and interests in a way that meets and promotes the public interest. It also represents an outcome that is preferable to the time, expense and uncertainty of litigation before the Commission and potentially, appellate courts, the reasonable costs of which may be borne by the ratepayers. The Settlement consists of the following terms and conditions:

A. Revenue Requirement Increase - Water

20. Upon the Commission’s approval of this Settlement, but no earlier than January 1, 2020, the Company will be permitted to charge the rates for water service set forth in the proposed Tariff Supplement attached hereto as **Appendix A** (“Settlement Rates”), to become effective upon one day’s notice. Instead of the \$362,019 increase requested in the filing, the Settlement Rates are designed to produce an increase of annual operating revenue of \$315,000 as shown in greater detail on the Proof of Revenues attached hereto as **Appendix B**.

21. The revenue requirement for the Company’s water operations does not include the following items in rate base: (1) rate case expense, (2) tank inspection expense, and (3) Penn Estates Meters NBV.

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<sup>2</sup> *Pennsylvania Public Utility Commission et al v. Peoples TWP LLC*, 2013 WL 6835105, at \*16 (Order entered Dec. 19, 2013) (“We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. See, Pa. PUC v. Wellsboro Electric Co., Docket No. R-2010-2172662 (Final Order entered January 13, 2011); Pa. PUC v. Citizens' Electric Co. of Lewisburg, PA, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. For these reasons, we support the use of a “black box” settlement in this proceeding and, accordingly, deny this Exception.”).

B. Revenue Requirement Increase - Wastewater

22. Upon the Commission’s approval of this Settlement, but no earlier than January 1, 2020, the Company will be permitted to charge the rates for wastewater service set forth in the proposed Tariff Supplement attached hereto as **Appendix A** (“Settlement Rates”), to become effective upon one day’s notice. Instead of the \$378,770 increase requested in the filing, the Settlement Rates are designed to produce an increase of annual operating revenue of \$224,000 as shown in greater detail on the Proof of Revenues attached hereto as **Appendix B**.

23. The revenue requirement for the Company’s wastewater operations does not include the following items in rate base: (1) rate case expense, (2) multi-year testing, and (3) Delaware River Basin Committee permit expense.

C. Rate Design and Structure

24. Water – Rates will be designed to achieve full unitization of rates across the two water service territories. 100% of the increase will be allocated to volumetric rates. The volumetric rate for all meter sizes per 1,000 gal. per month is as follows:

**Volumetric Charges**

<b>Service Territory</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
Westgate	\$ 7.27	\$ 6.45	\$ 9.28
Penn Estates	\$ 6.26	\$ 6.45	\$ 9.28

**Water Flat Charges - Westgate**

<b>Meter Size</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
5/8"	\$ 17.25	\$ 29.15	\$ 17.25
1"	\$ 43.13	\$ 69.20	\$ 43.13
1.5"	\$ 86.25	\$ 135.90	\$ 86.25
2"	\$ 138.00	\$ 216.00	\$ 138.00

**Water Flat Charges - Penn Estates**

<b>Meter Size</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
5/8"	\$ 17.25	\$ 29.15	\$ 17.25
1"	\$ 43.13	\$ 69.20	\$ 43.13
1.5"	\$ 86.25	\$ 135.90	\$ 86.25
2"	\$ 138.00	\$ 216.00	\$ 138.00

25. Wastewater – Rates will be designed to achieve full unitization of rates across the two wastewater territories. Monthly rates for each class of customers have been adjusted using the 12.36% annual incremental revenue increase. The flat rate for each customer class per month are as follows:

**Wastewater Flat Charges**

<b>Service Territory</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
Penn Estates Residential	\$ 46.56	\$ 59.55	\$ 55.39
Penn Estates Commercial	\$ 46.56	\$ 59.55	\$ 55.39
Penn Estates Availability	\$ 11.68	\$ 17.25	\$ 13.12
Utilities Inc. of Pennsylvania Inc Residential	\$ 52.59	\$ 59.55	\$ 55.39
Utilities Inc. of Pennsylvania Inc Commercial	\$ 52.59	\$ 59.55	\$ 55.39
Utilities Inc. of Pennsylvania Inc Availability	\$ -	\$ 17.25	\$ 13.12
Utilities Inc. of Pennsylvania Inc. School	\$ 1.06	\$ 1.26	\$ 1.19

26. The baseline items determined in the Company's most recent Purchased Water Adjustment Clause (PWAC) calculation and used in this proceeding are:

$$(50,613,975 \text{ gallons} \times \$3.969/\text{gallon}) + (\$17,486.52 \text{ fixed charges}) = \$218,424$$

27. The Company will continue to impose the present fire hydrant charge for those fire hydrants that meet fire code requirements. The Company will provide a count of billed fire

hydrants in each service area and a detailed breakdown of the cost for all fire hydrant maintenance and service in its next rate proceeding.

28. The Company will provide the Commission's Bureau of Technical Utility Services and the signatories to the Settlement with an update to CUPA Supporting Data, Section 1, p. 17 of the water and wastewater filing no later than April 1, 2020, under this docket number, which should include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2019. An additional update should be provided for actuals through December 31, 2020, no later than April 1, 2021.

29. If the City of Bethlehem files a Section 1308(d) rate increase with the Commission prior to the Company's next base rate proceeding, the Company agrees to initiate a Petition proceeding within 120 days from the date of the City's filing to address consolidation or elimination of the PWAC. If the Company files its next base rate case prior to a Section 1308(d) filing by the City of Bethlehem, all parties reserve the right to address the consolidation or elimination of the PWAC in the Company's next base rate proceeding. The Company reserves the right to claim the costs of the Petition proceeding in the Company's next base rate proceeding and the parties reserve the right to challenge any claim for these expenses.

D. Standard Terms

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

extent required to implement any term specifically agreed to by the Joint Petitioners or to enforce this Settlement.

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

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

33. All Joint Petitioners shall support the Settlement and make reasonable and good faith efforts to obtain approval of the Settlement by the ALJ and the Commission without modification. If the ALJ, in the Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, to the extent any terms and conditions of the Settlement are

modified, or additional matters are proposed by the ALJ in the Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed provided such Replies support the Settlement.

34. The Joint Petitioners recognize that this Joint Petition is a settlement of, and binding upon, only among the parties signing this document. The OCA represents it will, on the date of the signing of this settlement petition, send a letter providing instructions concerning the Complainants' opportunity to address the proposed Settlement. OCA also represents that the letter will explain that the Complainant has until September 16, 2019 to join, disagree but not actively oppose, or object to the proposed settlement and provide contact information for ALJ Brady and the OCA.

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

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

#### **IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

37. This Settlement was achieved by the Joint Petitioners after an extensive investigation of CUPA's filings, including informal and formal discovery and the submission of direct, rebuttal and surrebuttal by a number of the Joint Petitioners that were admitted into the record by stipulation.

38. Acceptance of the Settlement will avoid the necessity of further administrative and possibly appellate proceedings regarding the settled issues at what would have been a substantial cost to the Joint Petitioners and CUPA's customers.

39. Joint Petitioners have submitted, along with this Settlement, their respective Statements in Support setting forth the basis upon which each believes the Settlement to be fair, just and reasonable and therefore in the public interest. The Joint Petitioners' Statements in Support are attached hereto as Appendices "C" through "E."

V. CONCLUSION

WHEREFORE, Joint Petitioners respectfully request the Judge and the Commission to:

a) approve this Joint Petition for Full Settlement of Rate Proceeding without modification;

b) issue an Order granting CUPA permission to file the tariff supplements after entry of the Order attached hereto as **Appendix A** to become effective upon one (1) day notice but no earlier than January 1, 2020; and

c) terminate its investigation at Docket Nos. R-2019-3008947 and R-2019-3008948, and mark the Formal Complaints filed by the OCA at Docket Nos. C-2019-3009591 and C-2019-3009592 as satisfied and closed.

Respectfully submitted,



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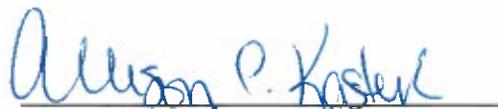
(Dated) 9/6/19

*Counsel for Community Utilities of Pennsylvania Inc. Water and Wastewater Divisions*



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(Dated) 9/6/2019



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Pennsylvania Public Utility Commission  
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(Dated) 9/6/2019

## **APPENDICES**

<b>APPENDIX A</b>	Tariff Supplement (Water and Wastewater)
<b>APPENDIX B</b>	Proof of Revenues (Water and Wastewater)
<b>APPENDIX C</b>	Community Utilities of Pennsylvania Statement in Support
<b>APPENDIX D</b>	Bureau of Investigation & Enforcement Statement in Support
<b>APPENDIX E</b>	Office of Consumer Advocate Statement in Support

# **APPENDIX A**

**COMMUNITY UTILITIES OF PENNSYLVANIA INC.**

**RATES, RULES AND REGULATIONS GOVERNING**

**THE PROVISION OF WATER SERVICE**

**TO THE PUBLIC IN STROUD AND POCONO TOWNSHIPS IN MONROE COUNTY, A  
PORTION OF HANOVER TOWNSHIP IN NORTHAMPTON COUNTY, AND PORTIONS  
OF LEHMAN TOWNSHIP IN PIKE COUNTY,**

**PENNSYLVANIA**

**Service Territory Formally Known as Penn Estates Utilities, Inc., Utilities, Inc., and  
Pennsylvania Utility Company**

ISSUED: \_\_\_\_\_, 2019

EFFECTIVE: January 1, 2020

**ISSUED BY:**

**Steven M. Lubertozzi, President  
2335 Sanders Road  
Northbrook, IL 60062  
(800) 860-4512**

**NOTICE**

**THIS TARIFF SUPPLEMENT UPDATES THE SCHEDULE OF RATES FOR ALL  
CUSTOMERS IN PENN ESTATES UTILITIES, INC, AND UTILITIES INC.  
SERVICE TERRITORIES**

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ISSUED: \_\_\_\_\_, 2019

EFFECTIVE: January 1, 2020

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LIST OF CHANGES

Supplement No. 8 updates Part I: SCHEDULE OF RATES AND CHARGES to adopt rates pursuant to the Commission-approved settlement entered at R-2019-3008947.

Supplement No. 8 also revises Part III: RULES AND REGULATIONS, Section H – Fire Protection Service to include a standard definition of “Fire Hydrant” and such governing standards which are subject to Company’s Fire Protection Rates.

Supplement No. 8 also adds Section L – Liability of Company to Part III: RULES AND REGULATIONS, adding provisions to govern the liability of the Company in the event of fires, breaks, leaks, or defects in the customer’s service pipes, damage to property, damage caused by change in water quality from maintenance procedures of pipes and reservoirs when not due to the lack of reasonable care on the part of the Company.

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(C) Indicates Change

**PART I: SCHEDULE OF RATES AND CHARGES**  
**(Service Territory Formally Known as Penn Estates Utilities, Inc.)**

All water supplied by the Company shall be metered and the water usage shall be paid for in accordance with the following schedule of rates:

**Section A - Rates for Metered Service**

**Residential**

1. **Customer Charge:** Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

**Meter Size**

5/8 inch	\$17.25/per month
1 inch	\$43.13/per month
1 1/2 inch	\$86.25/per month
2 inch	\$138.00per month

2. **Consumption Charge:** In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$9.28	(I)
----------------------	--------	-----

**Pool**

1. **Customer Charge:** Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

**Meter Size**

5/8 inch	\$17.25/per month
1 inch	\$43.13/per month
1 1/2 inch	\$86.25/per month
2 inch	\$138.00/per month

2. **Consumption Charge:** In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$9.28	(I)
----------------------	--------	-----

Rates will be payable in arrears and will be billed monthly.

(I) Indicates Increase

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**PART I: SCHEDULE OF RATES AND CHARGES (CONT'D)**  
**(Service Territory Formally Known as Penn Estates Utilities, Inc.)**

**Clubhouse**

1. **Customer Charge:** Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

**Meter Size**

5/8 inch	\$17.25/per month
1 inch	\$43.13/per month
1 1/2 inch	\$86.25/per month
2 inch	\$138.00/per month

2. **Consumption Charge:** In addition to the customer charge, the following water consumption charges will apply:

Rate per 1,000 Gals.	\$9.28	(I)
----------------------	--------	-----

**Section B - Fire Protection Rates**

1. **Private Fire Protection:**  
Not applicable.
2. **Public Fire Protection:**  
No separate fee is charged for public fire protection.

Rates will be payable in arrears and will be billed monthly.

(I) Indicates Increase

PART I: SCHEDULE OF RATES AND CHARGES (CONT'D)  
(Service Territory Formally Known as Utilities, Inc. - Westgate)

All water supplied by the Company shall be metered and the water usage shall be paid for in accordance with the following schedule of rates:

Section A - Rates for Metered Residential Service

1. Customer Charge: Each metered residential customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

<u>Meter Size</u>	<u>Customer Charge per Month</u>
5/8 inch	\$ 17.25
1 inch	\$ 43.13
1 1/2 inch	\$ 86.25
2 inch	\$ 138.00

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:
- |                      |        |     |
|----------------------|--------|-----|
| Rate per 1,000 Gals. | \$9.28 | (I) |
|----------------------|--------|-----|

Purchased Water Adjustment Clause

A Purchased Water Adjustment Clause of \$0.00 per 1,000 gallons is applied to metered sales.

Section B - Rates for Metered Commercial Service

1. Customer Charge: Each metered commercial customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

<u>Meter Size</u>	<u>Customer Charge per Month</u>
5/8 inch	\$ 17.25
1 inch	\$ 43.13
1 1/2 inch	\$ 86.25
2 inch	\$ 138.00

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:
- |                      |        |     |
|----------------------|--------|-----|
| Rate per 1,000 Gals. | \$9.28 | (I) |
|----------------------|--------|-----|

Purchased Water Adjustment Clause

A Purchased Water Adjustment Clause of \$0.00 per 1,000 gallons is applied to metered sales.

(I) Indicates Increase

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PART I: SCHEDULE OF RATES AND CHARGES (CONT'D)  
(Service Territory Formally Known as Utilities, Inc. - Westgate)

Section C – Fire Protection Rates

1. Public Fire Protection: For public fire protection, the charge shall be \$33.42 per hydrant per month. (I)

Section D – Returned Check Charge

A charge of \$25 will be assessed any time where a check which has been presented to the Company for payment on account has been returned by the payor's bank for any reason.

Section E – Tampering Fee

Unauthorized connections, repairs, or other tampering with the system will render the service subject to immediate discontinuation without notice and water service shall not be restored until such unauthorized connections, repairs, and other tampering with the system have been removed and unless settlement is made in full and for water service estimated by the Company to have been used by reason for such unauthorized connection. The fee for these unauthorized connections, repairs, and system tampering shall be \$200.00 plus any actual costs to repair.

Section F – Service Termination or Resumption Rates

The fee for shut-off or turn-on service at the curb stop shall be \$30.00 during regular business hours and \$75.00 during non-regular business hours.

Section G – Meter Test Rates

Consistent with Commission regulation at 52 Pa. Code Section 65.8(h), the fee schedule for testing of meters shall be as follows:

1 inch or less	\$10.00
1 ¼ inch – 2 inch	\$20.00

These amounts may vary without revision of this tariff so as to be consistent with Commission regulations.

Fees for testing meters over 2 inches or for testing meters so located that testing costs are disproportionate to the stated fees shall be as established by the Company based upon the actual cost of the test.

Section H – Construction Rates

The rate charge for building construction shall be at regular tariff metered service rates. A monthly deposit of \$20.00, or an amount based on the estimated use for a monthly billing period, will be required in advance.

- (I) Indicates increase.

PART I: SCHEDULE OF RATES AND CHARGES (CONT'D)  
(Service Territory Formally Known as Utilities, Inc. - Westgate)

Section I - Purchased Water Adjustment Charge

The Company may apply a Purchased Water Adjustment Clause ("PWAC") to its water rates set forth under Schedule of Rates and Charges to reflect an increase or decrease in the rates charged by its wholesale water supplier, the City of Bethlehem ("City").

The PWAC will be calculated based on changes in the customer charges contained in Schedule G Meter Rates-Sales for Resale of the City's Tariff Water PA. P.U.C. No. 6. For purposes of calculating the PWAC, the amount collected or refunded will be the difference between the consumption charge rate per 1,000 gallons contained in the Company's Schedule of Rates and Charges and the customer charges contained in Schedule G of the City's tariff. The Company will revise the Tariff consumption charge in its base rate cases to mirror the customer charges in Schedule G of the City's tariff and set its PWAC to zero. Between rate cases, the Company will use the PWAC to reflect changes in the rates contained in Schedule G of the City's tariff. The Company will provide notice to its customers of changes in rates resulting from application of the PWAC.

The baseline items determined in the Company's most recent PWAC calculation:

$$(50,613,975 \text{ gallons} \times \$3.969/\text{gallon}) + (\$17,486.52 \text{ fixed charges}) = \$218,424.00 \quad (C)$$

Determination of Purchased Water Adjustment Charge

A PWAC may be implemented on the effective date of a change in the City's wholesale rates charged to the Company for purchased water but not on less than 45 days notice to the customer. The Company may, at its option, implement a PWAC to recover an increase in purchased water costs. However, if the rate change is a decrease, the Company must implement a credit PWAC to reflect the decrease.

The items used to calculate the PWAC are:

- A. The projected cost of the volume of water purchased from the City in the prior 12 months at the City's revised rate per 1,000 gallons.

PART III: RULES AND REGULATIONS (CONT'D)

- 4. Use of Fire Hydrants: All persons are forbidden to open any fire hydrant or to use any water therefrom for sprinkling streets, for construction or for any purpose, without permission in writing from the Company, except in case of fire and by fire companies to test hydrants. Such tests shall be made directly under the supervision of an authorized agent of the Company.

The Company reserves the right to meter any fire line when evidence indicates that water is being taken from the line for purposes other than firefighting or as otherwise permitted by agreement, and such metered service shall then be billed in accordance with the regular schedule of metered rates, with proper allowance for water consumed in firefighting or other authorized use.

- 5. Fire Hydrants: Only those hydrants which comply with Pennsylvania Department of the Environment's Public Water Supply Manual, Part II, VIII, B,2, shall be considered "Fire Hydrants" and subject to the Company's Fire Protection Rates.

(C)  
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(C)

Section I - Service Continuity

- 1. Regularity of Service: The Company may, at any time, shut off water in the mains in case of accident or for the purpose of making connections, alterations, repairs or changes, or for other reasons, and may restrict the use of water to reserve a sufficient supply for public fire service or other emergencies whenever the public welfare so requires. The Company will, pursuant to Commission regulations at 52 Pa. Code § 67.1 and as circumstances permit, notify customers to be affected by service interruptions.

2. Liability for Service Interruptions

- (a) Limitation of Damages--The Company's liability to a customer for any loss or damage from any excess or deficiency in the pressure, volume or supply of water, due to any cause other than willful misconduct or negligence by the Company, its employees or agents shall be limited to an amount no more than the customer charge or minimum bill for the period in question. The Company will undertake to use reasonable care and diligence in order to prevent and avoid interruptions and fluctuations in service, but cannot and does not guarantee that such will not occur.
- (b) Responsibility for Customer Facilities--The Company shall not be liable for any loss or damage caused by reason of any break, leak or other defect in a customer's own service pipe, line, fixtures or other installations, except where the damage is a result of the negligence or willful misconduct of the Company, its employees or agents.

(C) Indicates Change

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PART III: RULES AND REGULATIONS (CONT'D)Section J - Waivers

The Company may, at its sole discretion, waive any of the Rules contained herein that operate for the benefit of the Company; provided, that no such waiver will be valid unless in writing and signed by an authorized representative of the Company, and provided that no waiver will be allowed where the waiver would constitute a violation of the Public Utility Code, the regulations of the Commission or of any other applicable statute, law or regulation.

Section K - Amendment of Commission Regulations

Whenever Commission regulations in Title 52 of the Pennsylvania Code are duly amended in such a way as would produce a difference between them and this tariff, this tariff is deemed to be amended so as to be consistent with the amendments to the regulations, except that if application of the amendment to Title 52 is discretionary, this tariff will remain unchanged.

Section L – Liability of Company

1. The Company shall in no event be liable for any damage or inconvenience caused by reason of any break, leak or defect in the customer's service pipe or fixtures.
2. The Company shall not be liable for damages of any kind or character for any deficiency in pressure, for failure of water supply, for the bursting or breaking of any mains, services, service branches, stops, valves or fixtures, wherever located, for any deficiency in any attachment to mains, services, service branches or any other facilities used by the Company, for any other interruption of water supply caused by breaking of machinery, stoppage for repairs or for any reason or occurrence beyond the reasonable control of the Company. The Company shall not be liable for any damage to the property of customers, owners, their lessees or licensees, those in possession of the premises or others caused by any of the foregoing reasons or by fire or otherwise resulting from the total or partial failure of water service or pressure failure or for any reason to provide sufficient water or any facilities for fire protection or for any other cause beyond the reasonable control of Company. The Company also will not be responsible for damage caused by changes in water quality that may be occasioned by cleaning of pipes, reservoirs or standpipes, or the opening or closing of any gates or hydrants or any other cause when the same is not due to lack of reasonable care on the part of the Company.

(C)

(C)

(C) Indicates Change

**COMMUNITY UTILITIES OF PENNSYLVANIA INC.**

RATES, RULES AND REGULATIONS GOVERNING

THE PROVISION OF WASTEWATER COLLECTION, TREATMENT  
AND/OR DISPOSAL SERVICE TO THE PUBLIC IN

STROUD AND POCONO TOWNSHIPS IN MONROE COUNTY, A PORTION OF WEST  
BRADFORD TOWNSHIP IN CHESTER COUNTY, AND PORTIONS OF LEHMAN  
TOWNSHIP IN PIKE COUNTY,

PENNSYLVANIA

Service Territory Formally Known as Penn Estates Utilities, Inc., Utilities, Inc., and  
Pennsylvania Utility Company

ISSUED: \_\_\_\_\_, 2019

EFFECTIVE: January 1, 2020

ISSUED BY:

Steven M. Lubertozzi, President  
2335 Sanders Road  
Northbrook, IL 60062  
(800) 860-4512

NOTICE

THIS TARIFF SUPPLEMENT UPDATES THE SCHEDULE OF RATES FOR ALL  
CUSTOMERS IN THE PENN ESTATES UTILITIES INC., AND UTILITIES INC.  
SERVICE TERRITORIES

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ISSUED: \_\_\_\_\_, 2019

EFFECTIVE: January 1, 2020

LIST OF CHANGES

Tariff Wastewater – Pa. P.U.C. No. 1 Supplement No. 6 updates the Part I: SCHEDULE OF RATES AND CHARGES to adopt rates pursuant to the Commission-approved settlement entered at R-2019-3008948.

Supplement No. 6 also adds Section M – Liability of Company to Part III: RULES AND REGULATIONS, adding provisions to govern the liability of the Company in the event of damage due to blockage, break or overload as a result of defects in the customer’s service pipes, or damage to property when not due to the lack of reasonable care on the part of the Company.

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PART I: SCHEDULE OF RATES AND CHARGES

Section A - Rates for Metered Service

The utility has no approved metered rate. All wastewater customers are subject to flat rates herein within Part I, Section B.

Section B - Flat Rates

The charge per unit is a flat rate either per month or per quarter as follows:

Residential

\$55.39 per month per lot located within Penn Estates and upon which a structure has been erected. (I)  
This rate will be billed monthly.

Pool

\$55.39 per month per lot located within Penn Estates and at which a community pool or showering facility has been erected. This rate will be billed monthly. (I)

Clubhouse

\$55.39 per month for the Penn Estates Clubhouse. This rate will be billed monthly. (I)

All Other (Customer not Identified as Residential, Pool, & Clubhouse)

\$55.39 per month for the Penn Estates Clubhouse. This rate will be billed monthly. (I)

Section C - Returned Check Charge

A charge of \$25 will be assessed any time where a check which has been presented to the Company for payment on account has been returned by the payor's bank for any reason.

Section D - Availability

\$13.12 per month per lot if located within Penn Estates and upon which no structure has been erected for an availability charge. This rate will continue to be billed quarterly. (I)

Section E – Tampering Fee

Unauthorized connections, repairs, or other tampering with the system will render the service subject to immediate discontinuation without notice and wastewater service shall not be restored until such unauthorized connections, repairs, and other tampering with the system have been removed and unless settlement is made in full and for wastewater service estimated by the Company to have been used by reason for such unauthorized connection. The fee for these unauthorized connections, repairs, and system tampering shall be \$200 plus any actual costs to repair.

(I) Indicates Increase

PART I: SCHEDULE OF RATES AND CHARGESSection A - Rates for Metered Service

The utility has no approved metered rate. All wastewater customers are subject to flat rates herein within Part I, Section B.

Section B - Flat Rates

The charge per unit is a flat rate either per month or per quarter as follows:

Residential

Per year, per household \$ 664.68 (I)

The flat rate charges will be billed quarterly covering service for the three (3) months immediately preceding presentation of bill and will be due and payable as rendered in equal amounts of \$166.17 (I) per quarter. Customers have the option of monthly billings if they so desire. Monthly bills will be in equal amounts of \$55.39 per month.

School

Per quarter, per pupil \$ 1.19 (I)

The charges will be billed quarterly based on the rate of \$3.77 per pupil per quarter based on the (I) number of pupils for the preceding three (3) month period.

All Other (Customers not identified as Residential or School)

Per year, per household \$ 664.68 (I)

The flat rate charges will be billed quarterly covering service for the three (3) months immediately preceding presentation of bill and will be due and payable as rendered in equal amounts of \$166.17 (I) per quarter. Customers have the option of monthly billings if they so desire. Monthly bills will be in equal amounts of \$55.39 per month.

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PART III: RULES AND REGULATIONS (CONT'D)

- I. Specific dangers: In general, any waste will be considered harmful to the Company wastewater system if it may cause any of the following damaging effects:
- (a) chemical reaction either directly or indirectly with the materials of construction of the system in such a manner as to impair the strength or durability of the sewer structures;
  - (b) mechanical action that will destroy the sewer structures;
  - (c) restriction of the hydraulic capacity of the sewer structures;
  - (d) restriction of the normal inspection or maintenance of the sewer structures;
  - (e) danger to public health and safety; or
  - (f) obnoxious condition contrary to public interest.

Section L - Privilege to Investigate/Right of Access

The Company's authorized representatives shall have the right of access at all reasonable times to all parts of any premises connected with the system, for the purpose of examining and inspecting connections and fixtures, including the water and/or wastewater metering arrangement, or for disconnecting service for any proper cause.

Section M – Liability of Company

The Company shall not be liable for damages of any kind or character for any deficiency or failure of sewer service, for the blockage or breaking or sewer overload for any deficiency in any Customer Service Line, or for any other interruption of sewer service caused by breaking of machinery, stopping for repairs or for any reason or occurrence beyond the reasonable control of the Company. The Company shall not be liable for any damage to any property caused by any of the foregoing reasons or for any other cause beyond the reasonable control of the Company.

(C)

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# **APPENDIX B**

Community Utilities of Pennsylvania Inc.  
 Water Division  
 Calculation of Proposed Rates  
 Future Test Year Ended December 31, 2020

Section 2  
 Supporting Schedule No. 2  
 Page 1 of 1

	A	B	C	D	E	F	G	H
Line No.	Meter Size	# of bills/units	Proposed Base Charge	Base Charge Revenue	Gallage	Proposed Gallage Charge	Gallage Charge Revenue	Total Revenue
1.	Water Residential							
2.	Meter Size							
3.	5/8"	31,246	\$ 17.2500	\$ 538,997	117,156,723	\$ 9.28	\$ 1,087,609	\$ 1,626,606
4.	1"	12	43.13	518	17,234	9.28	160	678
5.	1.5"	12	86.25	1,035	103,406	9.28	960	1,995
6.	2"	12	138.00	1,656	346,601	9.28	3,218	4,874
7.	Total Residential Water							\$ 1,634,152
8.								
9.	Water Commercial							
10.	Meter Size							
11.	5/8"	288	\$ 17.25	\$ 4,965	829,649	\$ 9.28	\$ 7,702	\$ 12,667
12.	1"	50	43.13	2,162	225,035	9.28	2,089	4,251
13.	1.5"	-	86.25	-	-	9.28	-	-
14.	2"	24	138.00	3,312	200,110	9.28	1,856	5,170
15.	Total Commercial Water							\$ 22,088
16.								
17.	Unmetered - Public Fire Protection (Hydrants)	744	\$ 33.42	\$ 24,867	-	\$ -	\$ -	\$ 24,867
18.	Unmetered - Construction Availability	-	-	-	-	-	-	-
19.	Unmetered - Other Availability	633	18.81	11,897.43	-	-	-	11,897
20.								
21.	Total Water							\$ 1,693,005
22.	Water Revenue Requirement from Rates							\$ 1,693,005
23.	Difference							\$ 0



**Community Utilities of Pennsylvania Inc.**  
**Water Division**  
**Calculation of Proposed Rates**  
**Future Test Year Ended December 31, 2020**

**Proposed Consolidated Water Volumetric Charge**

Volumetric Revenue FPFTY	\$	788,595
Incremental increase - Settlement	\$	315,000
Volumetric Revenue FPFTY w/ Incremental Revenue Increase	\$	1,103,595
Gallorage FPFTY		118,878,758
Proposed Gallorage Charge	\$	9.28

Community Utilities of Pennsylvania Inc.  
Wastewater Division  
Calculation of Proposed Rates  
Future Test Year Ended December 31, 2020

**Proposed Consolidated Wastewater Charge**

Household Revenue FPFTY	\$	867,069
Residential Revenue FPFTY		921,213
Commercial Revenue FPFTY		2,798
Incremental increase %		12.36%
Wastewater Revenue FPFTY w/ Incremental Revenue Increase	\$	2,012,404
Billing Units FPFTY		36,333

Proposed Flat Charge	\$	<u>55.39</u>
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**Proposed School Flat Charge**

School Charge per Pupil	\$	1.06
Incremental increase %		12.36%
Proposed School Charge	\$	<u>1.19</u>

**Proposed Availability Charge**

Availability	\$	11.68
Incremental increase %		12.36%
Proposed Availability Charge	\$	<u>13.12</u>

# **APPENDIX C**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission (water)	:	R-2019-3008947
Office of Consumer Advocate	:	C-2019-3009591
Gary and Mary Kutzelman	:	C-2019-3011086

v.

Community Utilities of Pennsylvania, Inc. (water)	:	
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and

Pennsylvania Public Utility Commission (wastewater)	:	R-2019-3008948
Office of Consumer Advocate	:	C-2019-3009592
Gary and Mary Kutzelman	:	C-2019-3011091

v.

Community Utilities of Pennsylvania, Inc. (wastewater)	:	
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**STATEMENT OF  
COMMUNITY UTILITIES OF PENNSYLVANIA, INC.  
IN SUPPORT OF THE  
JOINT PETITION FOR FULL SETTLEMENT**

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**TO ADMINISTRATIVE LAW JUDGE F. JOSEPH BRADY:**

**I. INTRODUCTION**

1. Community Utilities of Pennsylvania, Inc. (“Company” or “CUPA”) hereby submits this Statement in Support of the Joint Petition for Full Settlement of Rate Proceeding (“Joint Petition” or “Settlement”) filed by CUPA, the Bureau of Investigation & Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), and the Office of Consumer Advocate (“OCA”) in the above-captioned proceeding. As indicated in the Joint Petition, if approved, the Settlement resolves all issues in the proceeding. Accordingly, as

discussed more fully below, CUPA offers its support for the Settlement as being in the public interest and resulting in just and reasonable rates, and requests that the Presiding Administrative Law Judge and the Commission approve the Settlement as submitted and without modification.

2. Regarding the revenue increase for water, instead of the \$362,019 increase requested in the filing, the Settlement Rates are designed to produce an increase of annual operating revenue of \$315,000.

3. The flat rate customer charge for water has not changed, and instead the increase has been allocated to volumetric rates. A comparison of water rates is shown below:

**Volumetric Charges**

<b>Service Territory</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
Westgate	\$ 7.27	\$ 6.45	\$ 9.28
Penn Estates	\$ 6.26	\$ 6.45	\$ 9.28

**Water Flat Charges - Westgate**

<b>Meter Size</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
5/8"	\$ 17.25	\$ 29.15	\$ 17.25
1"	\$ 43.13	\$ 69.20	\$ 43.13
1.5"	\$ 86.25	\$ 135.90	\$ 86.25
2"	\$ 138.00	\$ 216.00	\$ 138.00

**Water Flat Charges - Penn Estates**

<b>Meter Size</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
5/8"	\$ 17.25	\$ 29.15	\$ 17.25
1"	\$ 43.13	\$ 69.20	\$ 43.13
1.5"	\$ 86.25	\$ 135.90	\$ 86.25
2"	\$ 138.00	\$ 216.00	\$ 138.00

4. Regarding the revenue increase for wastewater, instead of the \$378,770 increase requested in the filing, the Settlement Rates are designed to produce an increase of annual operating revenue of \$224,000.

5. A comparison of wastewater rates is shown below:

**Wastewater Flat Charges**

<b>Service Territory</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
Penn Estates Residential	\$ 46.56	\$ 59.55	\$ 55.39
Penn Estates Commercial	\$ 46.56	\$ 59.55	\$ 55.39
Penn Estates Availability	\$ 11.68	\$ 17.25	\$ 13.12
Utilities Inc. of Pennsylvania Inc Residential	\$ 52.59	\$ 59.55	\$ 55.39
Utilities Inc. of Pennsylvania Inc Commercial	\$ 52.59	\$ 59.55	\$ 55.39
Utilities Inc. of Pennsylvania Inc Availability	\$ -	\$ 17.25	\$ 13.12
Utilities Inc. of Pennsylvania Inc. School	\$ 1.06	\$ 1.26	\$ 1.19

6. As detailed below, the Settlement is in the public interest and should be approved without modification.

**II. BACKGROUND**

7. On April 1, 2019, Community Utilities of Pennsylvania Inc. (CUPA), filed Supplement No. 5 to Tariff Water–Pa. P.U.C. No. 1 to become effective June 1, 2019. The subject tariff supplement would increase CUPA’s total annual operating revenues for water service by approximately \$362,019, or 26.34%.

8. Also on April 1, 2019, Community Utilities of Pennsylvania Inc. – Wastewater Division (CUPA-WD), filed Supplement No. 3 to Tariff Wastewater–Pa. P.U.C. No. 1 to become effective June 1, 2019. The subject tariff supplement would increase CUPA-WD’s total annual operating revenues for wastewater service by approximately \$378,770, or 20.8%.

9. On May 1, 2019, the OCA filed formal Complaints, Public Statements, Verifications, and Notices of Appearance on behalf of Christine Hoover, Esq. The Complaints were docketed at C-2019-3009591 and C-2019-3009592.

10. By Orders entered May 9, 2019, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of rates, rules, and regulations contained in CUPA’s proposed Supplement No. 5 to Tariff Water–

Pa. P.U.C. No. 1 and CUPA-WD's proposed Supplement No. 3 to Tariff Wastewater–Pa. P.U.C. No. 1. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), both Tariffs were suspended by operation of law until January 1, 2020, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of the existing rates, rules, and regulations of CUPA and CUPA-WD. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

11. In accordance with the Commission's May 9, 2019 Order, the matter was assigned to Administrative Law Judge F. Joseph Brady.

12. On May 14, 2019, and May 15, 2019 a Notice and Prehearing Conference Order were issued, respectively, scheduling an initial prehearing conference for Tuesday, May 28, 2019 at 10:00 a.m.

13. On May 20, 2019, CUPA filed compliance tariffs that suspended Supplement Nos. 3 and 5 until January 1, 2019.

14. On May 24, 2019, Prehearing Memoranda were filed by CUPA, the OCA, and I&E.

15. A dual location Prehearing Conference was held on May 24, 2019. Counsel for CUPA, the OCA, and I&E participated.

16. On May 28, 2019, Allison C. Kaster, Esquire, filed a Notice of Appearance on behalf of I&E.

17. On June 4, 2019, Prehearing Order No. 2 was issued memorializing the matters decided and agreed upon by the parties attending the May 28, 2019 Prehearing Conference.

18. On or about June 25, 2019, Gary and Mary Kutzelman filed a Formal Complaint against CUPA's proposed rate increases at Docket Nos. C-2019-3011086 and C-2019-3011091. These customers did not attend the Prehearing Conference, did not file testimony, and did not otherwise actively participate in this matter.

19. On July 15, 2019, Public Input Hearings were held at the Penn Estates Community Center in East Stroudsburg, PA at 1:00 p.m. and the Hanover Township Community Center in Bethlehem, PA at 6:00 p.m.

20. On August 22, 2019, a hearing was held for the purpose of admitting by stipulation the parties' testimony and exhibits.

21. CUPA submitted the following testimony and evidence, which was admitted into the record on August 22, 2019:

CUPA W Statement No. 1	Direct Testimony of John Trogonoski (Water), with ten exhibits (CUPA W Exhibit JPT-1 through CUPA W Exhibit JPT-10)
CUPA WW Statement No. 1	Direct Testimony of John Trogonoski (Wastewater), with ten exhibits (CUPA WW Exhibit JPT-1 through CUPA WW Exhibit JPT-10)
CUPA Statement No. 1-R	Rebuttal Testimony of John Trogonoski addressing both Water and Wastewater
CUPA Statement No. 1-RJ	Rejoinder Outline of John Trogonoski addressing both Water and Wastewater
CUPA W Statement No. 2	Direct Testimony of Steven Lubertozzi (Water)
CUPA WW Statement No. 2	Direct Testimony of Steven Lubertozzi (Wastewater)

CUPA W Statement No. 2-R	Rebuttal Testimony of Steven Lubertozzi (Water)
CUPA WW Statement No. 2-R	Rebuttal Testimony of Steven Lubertozzi (Wastewater)
CUPA Statement No. 2-RJ	Rejoinder Outline of Steven Lubertozzi addressing both Water and Wastewater
CUPA W Statement No. 3	Direct Testimony of Perry Brown (Water) including an Errata to the entire statement served June 26, 2019, with two exhibits (CUPA W Exhibit PAB-1 and CUPA W Exhibit PAB-2 (with an Errata to CUPA W Exhibit PAB-2 pages 2, 3, 4, 5, 6, and 7 served on June 26, 2019))
CUPA WW Statement No. 3	Direct Testimony of Perry Brown (Wastewater) including an Errata to the entire statement served June 26, 2019, with two exhibits (CUPA WW Exhibit PAB-1 and CUPA WW Exhibit PAB-2 (with an Errata to CUPA WW Exhibit PAB-2 pages 3, 5, 6, and 7 served on June 26, 2019))
CUPA W Statement No. 3-R	Rebuttal Testimony of Perry Brown (Water) including an Errata to page 3 served August 13, 2019, with one exhibit (CUPA W Exhibit PAB 1-R with both Public and <b>Confidential</b> versions)
CUPA WW Statement No. 3-R	Rebuttal Testimony of Perry Brown (Wastewater), with one exhibit (CUPA WW Exhibit PAB 1-R (with an Errata to page 2 served on August 8, 2019))
CUPA W Statement No. 3-RJ	Rejoinder Outline of Perry Brown (Water)
CUPA WW Statement No. 3-RJ	Rejoinder Outline of Perry Brown (Wastewater)

CUPA W Statement No. 4	Direct Testimony of Jeffrey Woolard (Water), with one exhibit (CUPA Exhibit JW-1), adopted in full by Witness Justin Kersey
CUPA WW Statement No. 4	Direct Testimony of Jeffrey Woolard (Wastewater), with one exhibit (CUPA Exhibit JW-1), adopted in full by Witness Justin Kersey
CUPA W Statement No. 4	Rebuttal Testimony of Justin Kersey (Water), with six exhibits (CUPA W Exhibit No. JK 1-R through CUPA W Exhibit No. JK 6-R)
CUPA WW Statement No. 4	Rebuttal Testimony of Justin Kersey (Wastewater), with four exhibits (CUPA WW Exhibit No. JK 1-R through CUPA WW Exhibit No. JK 4-R)
CUPA Statement No. 5 (Highly Confidential and Public Versions)	Direct Testimony of Gordon Barefoot addressing water and wastewater, with two exhibits (CUPA Exhibit GB-1, and HIGHLY CONFIDENTIAL CUPA Exhibit GB-2)
CUPA W Statement No. 6	Direct Testimony of Scott Miller (Water), with two exhibits (CUPA W Exhibit SAM-1 and CUPA W Exhibit SAM-2)
CUPA WW Statement No. 6	Direct Testimony of Scott Miller (Wastewater), with two exhibits (CUPA WW Exhibit SAM-1 and CUPA WW Exhibit SAM-2)
CUPA W Statement No. 6	Rebuttal Testimony of Scott Miller (Water), with one exhibit (CUPA W Exhibit SAM 1-R)
CUPA WW Statement No. 6	Rebuttal Testimony of Scott Miller (Wastewater), with one exhibit (CUPA WW Exhibit SAM 1-R)

22. As explained in their respective Statements in Support, both OCA and I&E submitted responsive testimony and evidence of multiple witnesses (Direct and Surrebuttal), which was also entered into the record on August 22, 2019.

23. As explained in the Joint Petition, the Settlement was achieved only after a comprehensive investigation by the Parties into the Company's request and an analysis of the filing, discovery (thousands of pages of detailed information in response to hundreds of questions (including subparts) or document requests from the public advocates regarding all aspects of the requested increase), and the parties' testimony.

24. In the Settlement, the parties have agreed to unitize rates, which is a policy that this Commission promotes.<sup>1</sup> Unitized rates will allow CUPA to spread capital costs over a larger base of customers, which ultimately benefits all customers and can protect customers from rate shock. In the long-term, unitized rates will strengthen CUPA and allow the customers to enjoy lower rates via fewer rate cases and lower rate case expense.

25. The Commission, as stated in its regulations, encourages settlements. *See* 52 Pa. Code §§ 5.231, 69.391, 69.401. This Settlement reflects a carefully balanced compromise of the interests of CUPA, its customers, and the statutory advocates, and is in the public interest as explained in greater detail below and in the Joint Petition for Settlement. For these reasons and the reasons set forth below, the Settlement is just and reasonable and should be approved.

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<sup>1</sup> *Superior Water Co., Inc.*, 2009 WL 2501938 at \*12 (Pa. P.U.C. 2009) (“[F]or years the Commission’s policies and determinations have supported single tariff pricing and rate consolidation in acquisitions and rate cases. As we have often noted, the benefits of single tariff pricing outweigh its negative aspect.”); *see also Pa. PUC et al v. CUPA*, Docket Nos. R-2016-2538660 et al, Recommended Decision (recognizing move towards unitized rates in settlement in public interest when approving settlement) (RD adopted in full by Order dated Nov. 9, 2016).

### III. LEGAL PRINCIPLES

26. In deciding this or any other general rate increase case brought under Section 1308(d) of the Public Utility Code (Code), 66 Pa. C.S. § 1308(d), certain general principles always apply. A public utility is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Pa. Pub. Util. Comm'n v. Pennsylvania Gas and Water Co.* 341 A.2d 239, 251 (Pa.Cmwlth. 1975). The burden of proof to establish the justness and reasonableness of every element of a public utility's rate increase request rests solely upon the public utility in all proceedings filed under Section 1308(d) of the Code. The standard to be met by the public utility is set forth in Section 315(a) of the Code, 66 Pa.C.S. § 315(a), as follows:

**Reasonableness of rates.** – In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

In reviewing Section 315(a) of the Code, the Pennsylvania Commonwealth Court interpreted a public utility's burden of proof in a rate proceeding as follows:

Section 315(a) of the Public Utility Code, 66 Pa.C.S. § 315(a), places the burden of proving the justness and reasonableness of a proposed rate hike squarely on the public utility.

*Lower Frederick Twp. Water Co. v. Pa. Pub. Util. Comm'n*, 409 A.2d 505, 507 (Pa.Cmwlth. 1980) (emphasis added). *See also, Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa.Cmwlth. 1981). In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. C S Water*

*and Sewer Assoc.*, 74 Pa.PUC 767 (1991); *Pa. Pub. Util. Comm'n v. Philadelphia Electric Co.*, 60 Pa.PUC 1 (1985).

27. Additionally, Commission policy “encourage[s]” settlements. 52 Pa. Code §5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserves the resources of the Commission. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code §69.401. Many proceedings are expensive to litigate. Under longstanding Pennsylvania law,<sup>2</sup> reasonable rate case expense is recovered 100% from customers in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision, yields significant rate case expense savings for the company’s customers. This is one reason why settlements are encouraged by long-standing Commission policy.

28. CUPA has met its burden in this case and the Settlement is in the public interest and sets rates which meet the just and reasonable legal standard in Chapter 13 of the Public Utility Code. As explained in detail below, the testimony of CUPA witnesses, Mr. Lubertozzi and Mr. Kersey show that the Company has spent significant time and funds in maintaining and investing in the water systems’ plant since Penn Estates and Westgate’s last rate cases. Moreover, the Company outlines in detail that it will expend significant funds for additional projects included and detailed its rate base claim that will allow customers to continue to enjoy

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<sup>2</sup> *Butler Twp. Water Co. v. Pa. Pub. Util. Comm'n*, 473 A.2d 219 (Pa. Cmwlth. 1984).

high quality service. Notably, the settlement at ¶28 provides for periodic reports and confirmation of capital projects.

29. In addition, CUPA witness Mr. Brown provided the accounting schedules that supported the original rate request in this proceeding and addressed how the Company developed the new consolidated rates that are necessary to recover the requested revenues. Mr. Brown also explained the projections incorporated in the future test year developed by the company and explained their reasonableness. Mr. Brown's testimony fully supports the Company's original revenue requests of \$362,019 for water and \$378,770 for wastewater and, as such, more than supports the settlement revenue amounts of \$315,000 for water and \$224,000 for wastewater.

### **III. SPECIFIC SETTLEMENT TERMS**

30. The specific settlement terms are set forth in the Joint Petition for Settlement in ¶¶ 21-36 and are incorporated herein by reference.

31. **Water Revenue Requirement Increase.** Instead of the \$362,019 increase requested in the filing, the Settlement Rates are designed to produce an increase of annual operating revenue of \$315,000 as shown in greater detail on the Proof of Revenues in **Appendix B**. The \$315,000 annual increase, although less than that requested by the Company, will enable the Company to cover its expenses and to continue to invest in facilities that will allow the Company to continue to provide a high quality of service and water to its customers, as well as, respond to the ever increasing demands of Pennsylvania Department of Environmental Protection regulation.

32. As explained by CUPA witness Mr. Lubertozi, under present rates, the Company is not able to meet its operating costs and earn a reasonable return on its investment. For the forecasted 12 months ended December 31, 2020, CUPA is projected to earn a 3.19% return on

equity, which is far below the ROEs recommended by CUPA's cost of capital witness. Without appropriate rate relief, CUPA's ability to continue to provide environmentally safe, reliable and efficient water and sewer utility services to its customers and meet its financial obligations will be placed in jeopardy. Mr. Brown's testimony shows that during the 12 months ended December 31, 2018, which is referred to as the "per-books base year" in our testimony, the Company realized an overall 8.55% rate of return on the funds that finance the assets used in providing service to our customers. This compares to the 10.75% overall recommended rate of return for the Company. CUPAW St. No. 2 at 6.

33. As further explained by CUPA witnesses Mr. Lubertozzi and Mr. Kersey, CUPA made multiple water infrastructure improvements in the past year and more are planned in the future test period. CUPAW St. No. 2 at 7; CUPA W St. No. 4 (Mr. Kersey adopted in full the testimony of Mr. Woolard). These improvements are a reasonable and necessary cost of providing service and are appropriately included in the revenue requirement presented by Mr. Brown. Another phenomenon that is driving the need for this rate case is the shortfall in revenues that the water divisions are experiencing due to declining usage. While a large part of the increase in rates proposed in this case is needed simply to put us in a position to achieve a level of revenues the Commission has already approved, declining usage will continue to erode at revenues, impacting the opportunity for the Company to earn a reasonable return. CUPAW St. No. 2 at 7.

34. **Wastewater Revenue Requirement Increase.** Instead of the \$378,770 increase requested in the filing, the Settlement Rates are designed to produce an increase of annual operating revenue of \$224,000 as shown in greater detail on the Proof of Revenues in **Appendix B**. Joint Petition ¶ 23. The \$224,000 annual increase, although less than that requested by the

Company, will enable the Company to cover its expenses and to continue to invest in facilities that will allow the Company to continue to provide a high quality of service to its customers.

35. As explained by CUPA witness Mr. Lubertozi, under present rates, the Company is not able to meet its operating costs and earn a reasonable return on its investment. For the forecasted 12 months ended December 31, 2020, CUPA is projected to earn a 4.18% return on equity, which is far below the ROEs recommended by CUPA's cost of capital witness. Without appropriate rate relief, CUPA's ability to continue to provide environmentally safe, reliable and efficient wastewater and sewer utility services to its customers and meet its financial obligations will be placed in jeopardy. Mr. Brown's testimony shows that during the 12 months ended December 31, 2018, which is referred to as the "per-books base year" in our testimony, the Company realized an overall 6.94% rate of return on the funds that finance the assets used in providing service to our customers. This compares to the 10.75% overall recommended rate of return for the Company. CUPA WW St. No. 2 at 6.

36. As further explained by CUPA witnesses Mr. Lubertozi and Mr. Kersey, CUPA made multiple wastewater infrastructure improvements in the past year and more are planned in the future test period. These improvements are a reasonable and necessary cost of providing service and are appropriately included in the revenue requirement presented by Mr. Brown. CUPA WW St. No. 2 at 6-7; CUPA WW St. No. 4 (Mr. Kersey adopted in full the testimony of Mr. Woolard in full).

37. **Rate Design and Rate Structure.** This Settlement unitizes rates for both water and wastewater divisions respectively. Joint Petition at ¶¶ 24-25. Consolidation or unitization of rates between a utility company's divisions is a concept that is favored by the Commission.<sup>3</sup> As

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<sup>3</sup> *Superior Water Co., Inc.*, 2009 WL 2501938 at \*12 (Pa. P.U.C. 2009) ("[F]or years the Commission's policies and determinations have supported single tariff pricing and rate consolidation in acquisitions and rate cases. As we have

Mr. Lubertozi testified, consolidated rates are commonplace in other regulated utilities like gas and electric. Consolidated rates will allow CUPA to spread capital costs over a larger base of customers, which ultimately benefits all customers and can protect customers from rate shock. If a small standalone utility requires a significant capital improvement these costs can be spread over a larger base of customers. In the long-term, consolidated rates will strengthen CUPA and allow the customers to enjoy lower rates via fewer rate cases and lower rate case expense. CUPA W St. No. 2 at 9; CUPA WW St. No. 2 at 7.

38. The flat rate customer charge for water has not changed, and instead the increase has been allocated to volumetric rates. A comparison of water rates is shown below:

**Volumetric Charges**

<b>Service Territory</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
Westgate	\$ 7.27	\$ 6.45	\$ 9.28
Penn Estates	\$ 6.26	\$ 6.45	\$ 9.28

**Water Flat Charges - Westgate**

<b>Meter Size</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
5/8"	\$ 17.25	\$ 29.15	\$ 17.25
1"	\$ 43.13	\$ 69.20	\$ 43.13
1.5"	\$ 86.25	\$ 135.90	\$ 86.25
2"	\$ 138.00	\$ 216.00	\$ 138.00

**Water Flat Charges - Penn Estates**

<b>Meter Size</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
5/8"	\$ 17.25	\$ 29.15	\$ 17.25
1"	\$ 43.13	\$ 69.20	\$ 43.13
1.5"	\$ 86.25	\$ 135.90	\$ 86.25
2"	\$ 138.00	\$ 216.00	\$ 138.00

39. A comparison of wastewater rates is shown below:

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often noted, the benefits of single tariff pricing outweigh its negative aspect."); *see also Pa. PUC et al v. CUPA*, Docket Nos. R-2016-2538660 et al, Recommended Decision (recognizing move towards unitized rates in settlement in public interest when approving settlement) (RD adopted in full by Order dated Nov. 9, 2016).

### Wastewater Flat Charges

<b>Service Territory</b>	<b>Current</b>	<b>Proposed</b>	<b>Settlement</b>
Penn Estates Residential	\$ 46.56	\$ 59.55	\$ 55.39
Penn Estates Commercial	\$ 46.56	\$ 59.55	\$ 55.39
Penn Estates Availability	\$ 11.68	\$ 17.25	\$ 13.12
Utilities Inc. of Pennsylvania Inc Residential	\$ 52.59	\$ 59.55	\$ 55.39
Utilities Inc. of Pennsylvania Inc Commercial	\$ 52.59	\$ 59.55	\$ 55.39
Utilities Inc. of Pennsylvania Inc Availability	\$ -	\$ 17.25	\$ 13.12
Utilities Inc. of Pennsylvania Inc. School	\$ 1.06	\$ 1.26	\$ 1.19

#### **IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

40. The Settlement establishes rates which are just and reasonable. These rates economically benefit the Company's customers by setting lower rates than originally requested.<sup>4</sup> The Settlement also benefits customers because it provides the Company with additional revenues which will promote its continuing to provide a high quality of service.

41. The Settlement is also in the public interest because it balances the Company's need to have funds for upcoming projects versus confirmation of such projects or substitute projects being undertaken and completed. Under the Settlement at ¶ 29, the Company will provide to the Commission's Bureau of Technical Utility Services, OCA, and I&E periodic reports and confirmation of capital projects including actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2019 and an additional update for actuals through December 31, 2020, no later than April 1, 2021.

42. The Settlement is also in the public interest because it amicably and expeditiously resolves a number of important and potentially contentious issues which would have been very expensive and time-consuming to litigate before this Commission, and likely would have spawned expensive and time-consuming appeals. This Settlement represents a mutually

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<sup>4</sup> Rate case costs permitted by the Commission are borne by ratepayers of the Company.

acceptable and reasonable compromise, and will conserve the time, effort and rate case expense of all parties, as well as those of the Commission, the Presiding Officer and the Company's customers.

43. The Parties arrived at the Settlement terms after extensive review of discovery by the statutory advocates, presentation of testimony and exhibits, a tour of CUPA's facilities, and engaging in in-depth settlement discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement, including its terms and conditions and just and reasonable rates, is consistent with the Commission's rules, practices and procedures encouraging negotiated settlements and is therefore in the public interest. *See* 52 Pa. Code §§ 5.231, 69.391, 69.401.

44. Significantly, two of the signatories, I&E and OCA are charged with specific legal obligations to carefully scrutinize all aspects of a utility's request to increase rates. I&E functions as an independent prosecutorial bureau within the Commission and, as such, is charged with representing the public interest in utility rate proceedings.<sup>5</sup> The OCA has a statutory obligation to protect the interest of consumers of public utility service.<sup>6</sup> As evidenced by their active and extensive participation in all aspects of this case, these statutory parties have discharged their statutory obligations. Their joining in, and fully supporting the Settlement, is strong evidence that the Settlement's rates, terms and conditions are just, reasonable and in the public interest.

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<sup>5</sup> *See Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Dkt. No. M-2008-2071852 (Final Order entered August 11, 2011), p.5 ("BI&E will serve as the prosecutory bureau for purposes of representing the public interest in ratemaking and service matters...").

<sup>6</sup> *See* 71 Pa. C.S. §§ 309-1 *et seq.*

45. The Settlement is also without prejudice or admission to any position any party, including CUPA, may take in any subsequent or different proceeding.

46. For all of these reasons, and those stated in the Joint Petition, Community Utilities of Pennsylvania, Inc. believes that the Settlement is in the public interest and requests that the Presiding Administrative Law Judge and the Commission so find and approve the Settlement and the just and reasonable rates contained in the proposed settlement tariff supplements (**Appendix “A”** to the Joint Petition).

Respectfully submitted,



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Inc. Water and Wastewater Divisions*

# APPENDIX D

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
v.	:	Docket No. R-2019-3008947
Community Utilities of Pennsylvania Inc.	:	
Water Division	:	
	:	
	:	
Pennsylvania Public Utility Commission	:	
v.	:	Docket No. R-2019-3008948
Community Utilities of Pennsylvania Inc.	:	
Wastewater Division	:	

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

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**TO ADMINISTRATIVE LAW JUDGE F. JOSEPH BRADY:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through Prosecutor Allison C. Kaster, hereby respectfully requests that the terms and conditions of the foregoing Joint Petition for Full Settlement (“Joint Petition” or “Settlement”) be approved by Administrative Law Judge Brady (“ALJ”) and the Commission without modification. I&E submits that the terms and conditions of the Settlement are in the public interest for the following reasons:

## I. INTRODUCTION

Community Utilities of Pennsylvania Inc. (CUPA) and Community Utilities of Pennsylvania Inc. – Wastewater Division (CUPA-WD, collectively, Company) filed base rate cases at the dockets listed above on April 1, 2019. CUPA filed Supplement No. 5 to Tariff Water–Pa. P.U.C. No. 1 to become effective June 1, 2019, seeking to increase total annual operating revenues for water service by approximately \$362,019, or 26.34%. CUPA-WD filed Supplement No. 3 to Tariff Wastewater–Pa. P.U.C. No. 1 to become effective June 1, 2019, seeking to increase CUPA-WD’s total annual operating revenues for wastewater service by approximately \$378,770, or 20.8%.

By Orders entered May 9, 2019, the Pennsylvania Public Utility Commission instituted an investigation into the lawfulness, justness, and reasonableness of rates, rules, and regulations contained in Supplement No. 5 to Tariff Water–Pa. P.U.C. No. 1 and Supplement No. 3 to Tariff Wastewater–Pa. P.U.C. No. 1. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), both tariffs were suspended by operation of law until January 1, 2020, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of the existing rates, rules, and regulations of CUPA and CUPA-WD.

The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision. On May 15, 2019, ALJ Brady issued a Prehearing Conference Order indicating that Prehearing Conference Memorandum must be served on May 24, 2019 on or before

12:00 p.m. A Prehearing Conference was held on Tuesday, May 28, 2019, 2019 at 10:00 at which time litigation schedule was presented by the parties and approved by the ALJ.

Two Public Input Hearings were held in the Company's service territory on Monday, July 15, 2019. The afternoon Public Input Hearing was conducted at 1:00 pm in East Stroudsburg and the evening session was held at 6:00 pm in Bethlehem.

Pursuant to the procedural schedule established at the Prehearing Conference, I&E served all parties the following pieces of testimony and accompanying exhibits in the water proceeding at Docket No. R-2019-3008947:

I&E Statement No. 1 and I&E Exhibit No. 1 - the Direct Testimony of I&E witness Brenton Grab;

I&E Statement No. 1-SR and I&E Exhibit No. 1-SR - the Surrebuttal Testimony and accompanying Exhibit of I&E witness Brenton Grab;

I&E Statement No. 2 and I&E Exhibit No. 2 - the Direct Testimony and accompanying Exhibit of I&E witness Anthony Spadaccio;

I&E Statement No. 2-SR - the Surrebuttal Testimony of I&E witness Anthony Spadaccio;

I&E Statement No. 3 and I&E Exhibit No. 3 - the Direct Testimony and accompanying Exhibit of I&E witness Esyan Sakaya; and,

I&E Statement No. 3-SR - the Surrebuttal Testimony and accompanying Exhibit of I&E witness Esyan Sakaya.

In addition, I&E served the following pieces of testimony and accompanying exhibits in the wastewater proceeding at Docket No. R-2019-3008948:

I&E Statement No. 1 and I&E Exhibit No. 1 - the Direct Testimony of I&E witness Brenton Grab;

I&E Statement No. 1-SR and I&E Exhibit No. 1-SR - the Surrebuttal Testimony and accompanying Exhibit of I&E witness Brenton Grab;

I&E Statement No. 2 and I&E Exhibit No. 2 - the Direct Testimony and accompanying Exhibit of I&E witness Anthony Spadaccio;

I&E Statement No. 2-SR - the Surrebuttal Testimony of I&E witness Anthony Spadaccio;

I&E Statement No. 3 and I&E Exhibit No. 3 - the Direct Testimony and accompanying Exhibit of I&E witness Holly Gilliland; and,

I&E Statement No. 3-SR - the Surrebuttal Testimony and accompanying Exhibit of I&E witness Holly Gilliland.

Pursuant to the Commission's policy of encouraging settlements, the parties engaged in extensive settlement discussions during the course of litigation. I&E participated in those discussions to ensure that all interests, including those of the Company and its customers, were represented. Through those discussions, the parties were able to reach a settlement in principle of all issues on August 21, 2019.

## **II. SETTLEMENT TERMS**

### **A. Commission Encourages Settlements (Settlement at ¶ 19)**

It is the policy of the Commission to encourage settlements.<sup>1</sup> The following policy statement articulates general settlement guidelines and procedures for major rate cases:

In the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding. It is also the Commission's judgment that the public interest will benefit by the adoption of §§ 69.402—69.406 and this section which establish guidelines and procedures designed to encourage full and partial settlements as well as stipulations in major section 1308(d) general rate increase cases.<sup>2</sup>

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<sup>1</sup> 52 Pa. Code § 5.231.

<sup>2</sup> 52 Pa. Code § 69.401.

This policy statement highlights the importance of settlement in Commission proceedings. The Commission has recognized that a settlement “reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest.”<sup>3</sup> The negotiated Settlement demonstrates that compromises are evident throughout the Stipulation. Accordingly, for the reasons articulated below to achieve the full scope of benefits addressed in the Settlement, I&E requests that the Settlement be recommended by ALJ Brady and approved by the Commission without modification.

**B. Revenue Requirement Increase (Settlement at ¶¶ 21-24)**

I&E fully supports the negotiated \$315,000 increase for CUPA in lieu of the \$362,019 requested in CUPA’s original filing. Also, for CUPA-WD, I&E supports the negotiated \$224,000 increase in lieu of the originally requested \$378,770 increase.

I&E analyzed the ratemaking claims contained in base rate filings including operating and maintenance expenses, rate base, taxes, cash working capital, rate structure, capital structure, and the cost of common equity and long-term debt. I&E’s stated recommendations on the identified issues were set forth in I&E’s extensive direct and surrebuttal testimony, which indicated an increase of \$308,337<sup>4</sup> for water and \$195,899<sup>5</sup> for wastewater. Therefore, the overall revenue levels are within the levels advanced on the evidentiary record and reflect a full compromise of all revenue-related issues raised by the parties.

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<sup>3</sup> *Pennsylvania Public Utility Commission v. C S Water and Sewer Associates*, 74 PA PUC 767, 771 (1991).

<sup>4</sup> I&E St. No. 1-SR (Water), p. 3.

<sup>5</sup> I&E St. No. 1-SR (Wastewater), p. 3.

With the exceptions specified below, due to the “black box” nature of the Settlement, there is no agreement upon individual issues; rather, the parties have agreed to an overall increase to base rates that is less than what was requested by the Companies. Line-by-line identification and ultimate resolution of every issue raised in the proceeding is not necessary to find that the Settlement satisfies the public interest, nor could such a result be achieved as part of a settlement. Black box settlements benefit ratepayers because they allow for the resolution of a contested proceeding at a level of increase that is below the amount requested by the regulated entity and in a manner that avoids the significant expenditure of time and resources related to further litigation. Black box settlements are commonly used in proceedings before this Commission. Indeed, the Commission has endorsed the use of black box settlements, as discussed in an Order approving such a settlement:

We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. *See, Pa. PUC v. Wellsboro Electric Co.*, Docket No. R-2010-2172662 (Final Order entered January 13, 2011); *Pa. PUC v. Citizens’ Electric Co. of Lewisburg, PA*, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company’s revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company’s cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. For these reasons, we support the use of a “black box” settlement in this proceeding and, accordingly, deny this Exception.<sup>6</sup>

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<sup>6</sup> *Pa. P.U.C. v. Peoples TWP LLC*, Docket No. R-2013-2355886. p. 28 (Order entered December 19, 2013).

As discussed above, this is a black box Settlement, however, the parties agree that the CUPA revenue requirement does not include rate case expense, tank inspection expense and Penn Estates Meters NBV in rate base and, similarly, the CUPA-WD revenue requirement does not include rate case expense, multi-year testing and Delaware River Basin Committee permit expense in rate base. I&E challenged the Company's request to include these items in rate base because they are routine operating expenses and should not be afforded rate base treatment.<sup>7</sup> As explained by I&E witness Grab, items included in rate base traditionally increase the value of the utility or its assets, such as investment in a new water plant or facility, while operating expenses are those items that need to be paid by the Company in order to operate such as material expense, chemical expense, tank inspections expense, and rate case expense.<sup>8</sup> I&E argued that the Company should not be permitted to recover a return of and on these items by including normal operating expenses in rate base. Therefore, this Settlement term memorializes the appropriate ratemaking treatment of the identified items.

### **C. Rate Design and Structure (Settlement at ¶ 25-30)**

The Settlement provides that rates are designed to achieve full unitization of rates across the two water and wastewater service territories. Paragraph 25 states that the water increase will be allocated 100% to volumetric rates. In its filing, CUPA proposed to allocate some of the increase to the customer charge, which I&E disputed because the proposed monthly customer charges were not supported by the cost of service study and

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<sup>7</sup> I&E St. No. 1 (Water), pp. 17-21. I&E St. No. 1 (Wastewater), pp. 19-22.

<sup>8</sup> I&E St. No. 1 (Water), p. 19. I&E St. No. 1 (Wastewater), pp. 19-22.

because the proposed increase violated the regulatory principle of gradualism.<sup>9</sup> Specifically, CUPA's original cost of service study indicated that it incurs \$297,835 of customer costs; however, under present rates, CUPA receives \$552,645 in customer charge revenue.<sup>10</sup> Given that the customer charge revenue exceeded customer costs by \$254,810 (\$552,645 - \$297,835), I&E argued that the customer charge increase is not supported. Accordingly, the Settlement appropriately does not increase CUPA's customer charge and allocates the entire increase to the volumetric charge.

For CUPA-WD, the parties agreed to adjust rates for each customer class by using the 12.36% annual incremental revenue increase, which resulted in the flat rates identified in paragraph 26 of the Settlement. These agreed upon revenue allocations and rate design are in the public interest as they represent a fair and reasonable rate increase to customers.

The Purchased Water Adjustment Clause (PWAC) was addressed in paragraphs 27 and 30 of the Settlement. CUPA serves Westgate customers through water purchased from the City of Bethlehem, and the PWAC allows CUPA to pass increases and decreases in purchased water costs from the City of Bethlehem to Westgate customers.<sup>11</sup> The Settlement calculates the number of gallons purchased, cost per gallon and cost of the fixed charges, resulting in a baseline of \$218, 424; therefore, under the PWAC, costs above or below that baseline can be recovered or returned to Westgate customers. However, I&E flagged this as an issue because the PWAC applies only to Westgate

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<sup>9</sup> I&E St. No. 3-SR (Water), pp. 9-12.

<sup>10</sup> I&E St. No. 3-SR (Water), p. 11.

<sup>11</sup> I&E St. No. 3-SR (Water), p. 2.

customers, not to Penn Estates customers, which is not in keeping with consolidating rates across the two service territories.<sup>12</sup> I&E testified that rate consolidation necessitates that the PWAC apply to both Westgate and Penn Estates customers: “If Westgate customer rates include costs to treat water in Penn Estates, then it follows that Penn Estates customer rates should include costs to buy water from the City of Bethlehem to serve Westgate customers.”<sup>13</sup> The Settlement addresses this issue by requiring the Company to initiate a Petition proceeding to address consolidate or elimination of the PWAC if the City of Bethlehem files a section 1308(d) rate increase. The rates the City of Bethlehem charges CUPA are tariff rates and cannot be increased without Commission approval; therefore, until the City of Bethlehem makes its next rate filing and potentially increases its rates, CUPA will not implement the PWAC. This term provides that if the City of Bethlehem does file a rate increase, CUPA will initiate a Petition where the consolidation or elimination of the PWAC will be addressed. Accordingly, this term is in the public interest because the application of the PWAC will be revisited prior to it being charged solely to Westgate customers.

Paragraph 28 requires CUPA charge fire hydrants that meet fire code requirements the appropriate tariff rate. In its filing, CUPA proposed to eliminate public fire service charge and reflected zero public fire service revenue because it claimed that the hydrants were flush hydrants instead of fire hydrants.<sup>14</sup> I&E challenged CUPA’s request to eliminate this revenue because CUPA’s cost of service study showed a cost to

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<sup>12</sup> I&E St. No. 3-SR (Water), pp. 2-4.

<sup>13</sup> I&E St. No. 3-SR (Water), p. 4.

<sup>14</sup> CUPA (Water) St. No. 6, p. 9.

provide fire service and because some of the hydrants did, in fact, satisfy requirements; therefore, I&E recommended that CUPA continue to charge for fire hydrants that were capable of delivering the required amount of volume for a two-hour duration.<sup>15</sup> The Settlement reflects that CUPA will continue to charge for those fire hydrants that satisfy fire code requirements, which is in the public interest because they are public fire hydrants and should be charged the appropriate tariff rate. Further, the Company committed to providing a count of billed fire hydrants in each service territory and a breakdown of fire hydrant maintenance and service in the next rate proceeding, which will assist the Company and parties in determining the appropriate ratemaking treatment of hydrants in Penn Estates and Westgate going forward.

### **III. THE SETTLEMENT SATISFIES THE PUBLIC INTEREST**

I&E represents that all issues have been satisfactorily resolved through discovery and discussions with the Company or are incorporated or considered in the resolution proposed in the Settlement. This Settlement exemplifies the benefits to be derived from a negotiated approach to resolving regulatory differences. The parties have carefully discussed and negotiated all issues raised in this proceeding and the Settlement maintains the proper balance of the interests of all parties.

Additionally, resolution of this case by Settlement rather than litigation avoids the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense and regulatory uncertainty.

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<sup>15</sup> I&E St. No. 3 (Water), pp. 16-18.

I&E further submits that the acceptance of this Settlement negates the need for evidentiary hearings, which would compel the extensive devotion of time and expense for the preparation, presentation, and cross-examination of multiple witnesses, the preparation of Main and Reply Briefs, the preparation of Exceptions and Replies, and the potential of filed appeals, all yielding substantial savings for all parties and ultimately all customers. Moreover, the Settlement provides regulatory certainty with respect to the disposition of issues and final resolution of this case which all the parties agree benefits their discrete interests.

**WHEREFORE**, the Commission's Bureau of Investigation and Enforcement represents that it supports the Joint Petition for Settlement as being in the public interest and respectfully requests that Administrative Law Judge F. Joseph Brady recommend, and the Commission approve, the terms and conditions contained in the Settlement without modification.

Respectfully submitted,



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Allison C. Kaster  
Attorney I.D. #93176

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
400 North Street  
Keystone Building  
Harrisburg, Pennsylvania 17120

Dated: September 6, 2019

# APPENDIX E

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
Office of Consumer Advocate	:	
	:	
v.	:	
	:	
Community Utilities of Pennsylvania, Inc.	:	Docket Nos. R-2019-3008947
Water Division	:	C-2019-3009591
	:	
Community Utilities of Pennsylvania, Inc.	:	Docket Nos. R-2019-3008948
Wastewater Division	:	C-2019-3009592

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STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF THE JOINT PETITION FOR  
FULL SETTLEMENT OF RATE PROCEEDING

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The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Full Settlement of Rate Proceeding (Settlement), finds the terms and conditions of the Settlement to be in the public interest and in the interest of Community Utilities of Pennsylvania, Inc.’s (CUPA or Company) ratepayers. The OCA respectfully requests that the Pennsylvania Public Utility Commission (Commission) approve the Settlement, without modification, for the following reasons:

**I. BACKGROUND**

On April 1, 2019, CUPA filed Tariff Supplement No. 5 to Tariff Water – Pa. P.U.C. No. 1 (Supplement No. 5) to become effective June 1, 2019. Through Supplement No. 5, CUPA proposed to increase water rates to produce additional annual operating revenue of approximately \$362,019 per year, or approximately 26.34%, over the amount of annual revenues

at present rates anticipated for the Fully Projected Future Test Year (FPFTY) ended December 31, 2020. CUPAW Exh. PAB-1 at 1-1.

CUPA provides water service to approximately 2,788 customers in portions of the Townships of Stroud and Pocono, Monroe County, and portions of Hanover Township, Northampton County, Pennsylvania. CUPAW Exh. PAB-1 at 1-8. Furthermore, CUPA provides water service to its customers in two service territories, Penn Estates Utilities, Inc. (Penn Estates) and Utilities Inc. - Westgate (Westgate). CUPAW Exh. PAB-1 at 1-5.

As part of this rate filing, CUPA proposed to consolidate rates of the two service territories resulting in a larger increase for Penn Estates customers, who currently pay lower rates than Westgate customers. CUPAW Exh. PAB-1 at 1-5. Specifically, the Company proposed to increase the Penn Estates and Westgate customer charge by \$11.90, or 69%, from \$17.25 to \$29.15. Id. For consumption, however, the Company proposed an increase of \$0.19 per 1,000 gallons for Penn Estates customers, as opposed to a decrease of \$0.82 per 1,000 gallons for Westgate customers. Id.

If the full rate increase were approved for the Company's water division, a customer in the Penn Estates service territory with a 5/8" meter using 4,000 gallons per month would experience an increase in their monthly bill of \$12.66, or 29.9%, from \$42.29 to \$54.95 per month. Similarly, a customer in the Westgate service territory with a 5/8" meter using 4,000 gallons per month would experience an increase in their monthly bill of \$8.62, or 18.6%, from \$46.33 to \$54.95 per month.

In addition to the Company's proposed water rate increase, CUPA also filed Tariff Supplement No. 3 to Tariff Wastewater – Pa. P.U.C. No. 1 (Supplement No. 3) to become effective June 1, 2019. Through Supplement No. 3, CUPA proposed to increase sewer rates to

produce additional annual operating revenue of approximately \$378,770 per year, or approximately 20.8%, over the amount of annual revenues at present rates anticipated for the FPFTY ended December 31, 2020. CUPAWW Exh. PAB-1 at 1-1.

CUPA provides sewer service to approximately 3,259 customers in portions of the Townships of Stroud and Pocono, Monroe County, and portions of West Bradford Township, Chester County, Pennsylvania. CUPAWW Exh. PAB-1 at 1-8. Furthermore, CUPA provides wastewater service to its customers in two service territories, Penn Estates and Utilities Inc. of Pennsylvania (UIP). Sewer customers of CUPA are not metered and pay a flat monthly fee. CUPAWW Exh. PAB-1 at 1-5.

As part of the wastewater rate filing, CUPA proposed to consolidate rates of the two service territories resulting in a larger increase for Penn Estates customers, who currently pay lower rates than UIP customers. CUPAWW Exh. PAB-1 at 1-5. If the full rate increase were approved for the Company's wastewater division, a customer in the Penn Estates service territory with a 5/8" meter would experience an increase in their monthly bill of \$12.99, or 27.9%, from \$46.56 to \$59.55 per month. Similarly, a customer in the UIP service territory with a 5/8" meter would experience an increase in their monthly bill of \$6.96, or 13.23%, from \$52.59 to \$59.55 per month.

On May 1, 2019, the OCA filed two Formal Complaints and Public Statements against the proposed revenue increases for the Company's water and wastewater divisions. On May 28, 2019, the Commission's Bureau of Investigation and Enforcement (I&E) entered a Notice of Appearance in both the water and wastewater docket. A formal complaint was also filed by Gary and Mary Kutzelman requesting to participate in both proceedings.

On May 9, 2019, the Commission entered two Suspension Orders initiating an investigation into the lawfulness, justness, and reasonableness of the proposed rate increases and the Company's existing rates, rules, and regulations for its water and wastewater divisions. The Commission's Orders suspended the effective date of Supplement No. 5 and Supplement No. 3 until January 1, 2020, by operation of law. The case was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge F. Joseph Brady (ALJ Brady). A Telephonic Prehearing Conference was held on May 28, 2019, where the two proceedings were consolidated, the parties mutually agreed to a procedural schedule and modifications were made to the Commission's discovery regulations.

In its investigation of the rate filing and development of its position, the OCA analyzed the Company's claims, written testimony, and discovery responses. In accordance with the procedural schedule, on July 17, 2019, the OCA submitted the Direct Testimonies of Stacy L. Sherwood<sup>1</sup>, OCA Statement 1 (Water and Wastewater), Aaron L. Rothschild<sup>2</sup>, OCA Statement 2 (Combined Water and Wastewater), Jerome D. Mierzwa<sup>3</sup>, OCA Statement 3 (Water), and Terry

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<sup>1</sup> Ms. Sherwood is an Economist with Exeter Associates, Inc. At Exeter, Ms. Sherwood develops utility service assessments, provides bill and rate analysis, and assesses and evaluates the effectiveness of energy conservation and efficiency programs. Additionally, Ms. Sherwood has participated in numerous water rate cases in Rhode Island, New Jersey, and Pennsylvania, performing revenue requirement analyses in proceedings such as Hidden Valley Utility Services, LP and Newtown Artesian Water Company's most recent base rate cases. Her full background and qualifications are provided in Appendix A, attached to OCA Statement 1.

<sup>2</sup> Mr. Rothschild is a financial consultant specializing in cost of capital issues in utility regulation. He has over twenty years of experience providing utility financial analysis. Mr. Rothschild has applied his expertise in numerous proceedings before the Pennsylvania Public Utility Commission, over twenty other state public service commissions, and the Federal Energy Regulatory Commission. His full background and qualifications are provided in Appendix A, attached to OCA Statement 2.

<sup>3</sup> Mr. Mierzwa is a principal at and the President of the utility consulting firm, Exeter Associates Inc., and has been affiliated with the firm since April 1990. During his tenure with Exeter, Mr. Mierzwa has specialized in, among other things, evaluating the gas purchasing practices of natural gas utilities, utility cost of service and rate design analysis, performance-based incentive regulation and revenue requirement analysis. Mr. Mierzwa has testified in more than 300 utility regulatory proceedings in 13 states, including Pennsylvania. He holds a Bachelor's degree and a Masters of Business Administration degree from Canisius College. His full background and qualifications are provided in Appendix A, attached to OCA Statement 3.

L. Fought<sup>4</sup>, OCA Statement 4 (Water<sup>5</sup> and Wastewater). Additionally, on August 15, 2019, the OCA submitted the Surrebuttal Testimonies of Stacy L. Sherwood, OCA Statement 1SR (Water and Wastewater), Aaron L. Rothschild, OCA Statement 2SR (Combined Water and Wastewater), Jerome D. Mierzwa, OCA Statement 3SR (Water), and Terry L. Fought, OCA Statement 4SR (Water).

Several settlement conferences were held to attempt to reach a settlement in principle on the issues raised in this proceeding. As a result of those conferences, the Joint Petitioners reached a comprehensive agreement on all issues on August 21, 2019. Subsequently, an evidentiary hearing was held on August 22, 2019, to enter the testimony and evidence of the parties into the record.

The terms and conditions of the Settlement satisfactorily address the issues raised in the OCA's Formal Complaints and testimony. The OCA recognizes that this Settlement contains modifications from the original recommendations proposed by the OCA. The OCA submits, however, that the agreed upon Settlement achieves a fair resolution of the many complex issues presented in this proceeding.

In this Statement in Support, the OCA addresses those areas of the Settlement that specifically relate to important issues that the OCA raised in this case. The OCA expects that

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<sup>4</sup> Mr. Fought is a consulting engineer with more than forty years of experience as a civil engineer. Mr. Fought is a registered Professional Engineer in Pennsylvania, New Jersey and Virginia and is a Professional Land Surveyor in Pennsylvania. Mr. Fought has prepared studies related to and designed water supply, treatment, transmission, distribution and storage for private and municipal wastewater agencies. He has also served as a consultant to the OCA for numerous water and sewer matters since 1984. Mr. Fought's background and qualifications are attached to OCA Statement 4 as Appendix A

<sup>5</sup> The OCA initially served a confidential version of OCA Statement 4 (water), as it included information that the Company previously identified as confidential. After subsequent discussions, however, the parties agreed that the information contained in OCA Statement 4 was not confidential. For clarity of the record, the OCA received permission from the Company to declassify the testimony. On August 8, 2019, the OCA served the Revised Direct Testimony of Terry L. Fought, Revised OCA St. 4, on parties of record. The Revised OCA Statement 4 will hereinafter be referred to as OCA Statement 4.

other parties will discuss how the Settlement's terms and conditions address their respective issues and how those parts of the Settlement support the public interest standard required for Commission approval.

For these reasons, and those that are discussed in greater detail below, the OCA submits that the Settlement is in the public interest and in the interest of CUPA's ratepayers, and should be approved by the Commission without modification.

## II. SETTLEMENT TERMS AND CONDITIONS

### A. Revenue Requirement (Settlement ¶¶ 21, 23)

CUPA initially proposed to increase its annual operating revenues for its water operations by approximately \$362,019 per year, or 26.34%, over the amount of annual revenues at present rates. CUPAW Exh. PAB-1 at 1-1. Similarly, CUPA proposed to increase its annual operating revenues for its wastewater operations by approximately \$378,770 per year, or 20.8%, over the amount of annual revenues at present rates. CUPAWW Exh. PAB-1 at 1-1. As the proceeding progressed, the Company corrected its rate filings to reflect several changes to the Company's cost of service, including, among other things, the misallocation of approximately \$273,218 in additional test year plant to the Company's wastewater rate base. CUPA W St. No. 3-R at 3-4. As a result of these changes, the Company revised its revenue requirement for both its water and wastewater operations. See CUPA W St. No. 3-R at 1-2, CUPA WW St. No. 3-R at 1. The Company's revised proposal was to increase its annual operating revenues for its water operations by approximately \$420,044, or 30.7%. CUPA W St. No. 3-R at 1-2. The Company's revised wastewater proposal was to increase its annual operating revenues for its wastewater operations by approximately \$339,391, or 18.6%. CUPA WW St. No. 3-R at 1.

## Appendix E

In the OCA's direct testimony, it initially recommended that the Company receive an increase no higher than \$229,621 for its water operations and \$273,886 for its wastewater operations. See OCA St. 1 (Water) at 3, OCA St. 1 (Wastewater) at 3. This recommendation was based, in part upon numerous adjustments to the Company's rate base and expenses for the future test year and FPFTY. Subsequently, the OCA adopted the Company's corrections that it made in its rebuttal testimony, *i.e.* the misallocation of additional water plant in service. OCA St. 1SR (Water) at 2-3, OCA St. 1SR (Wastewater) at 2-3. As a result, the OCA recommended in its surrebuttal testimony that the Company receive an increase no higher than \$251,736 for its water operations and \$234,542 for the Company's wastewater operations. OCA St. 1SR (Water), Sch. SLS-1 at 2, OCA St. 1SR (Wastewater), Sch. SLS-1 at 2.

Under the Settlement, the Company will be permitted a total annual revenue increase of approximately \$315,000 for the Company's water division and \$224,000 for the Company's wastewater division. Settlement ¶¶ 21, 23. Overall, this represents an increase of approximately 23% over present water division revenues and approximately 12.3% over present wastewater division revenues. Combined, this is approximately \$220,435 less than the total revised amount requested by CUPA.

The Settlement represents a "black box" approach to the revenue requirement including cost of capital issues. Black box settlements avoid the need for protracted disputes over the merits of individual revenue requirement adjustments and avoid the need for a diverse group of stakeholders to attempt to reach a consensus on each of the disputed accounting and ratemaking issues raised in this matter, as policy and legal positions can differ. As such, the parties have not specified a dollar amount for each issue or adjustment raised in this case. Attempting to reach

agreement regarding each adjustment in this proceeding would have likely prevented any settlement from being reached.

Based on the OCA's analysis of CUPA's filing, discovery responses received, and testimony by all parties, the revenue increase under the Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of the case. The increase is reasonable and yields a result that is in the public interest, particularly when accompanied by other important conditions contained in the Settlement. The increase agreed to in the Settlement provides adequate funding to allow the Company to continue to provide safe, adequate, reliable, and continuous service. As such, the OCA submits that the increase agreed to in this Settlement is in the public interest and in the interest of CUPA's ratepayers, and should be approved by the Commission.

**B. Water Rate Design/Cost Allocation (Settlement ¶ 25)**

The Settlement provides that Company shall consolidate the rates of its two water division service territories, Penn Estates and Westgate. Settlement ¶ 25. Moreover, the Settlement states that the entire increase will be allocated to the volumetric rate as opposed to the fixed customer charge. Settlement ¶ 25.

The Company originally intended to allocate the entire water rate increase to the fixed customer charge. OCA St. 3 (Water) at 7. As a result, the Company proposed to increase the customer charge for Penn Estates and Westgate customers by nearly 70% above current rates. Id. In response, while the OCA did not challenge consolidation of rates, the OCA noted that the Company's proposed allocation violates fundamental principles of utility ratemaking. OCA St. 3 (Water) at 9-10. Specifically, dramatically increasing the fixed portion of a customer's bill provides less incentive for that customer to conserve water, as opposed to increasing the

volumetric rate. Id. Moreover, the Company's proposal would proportionally place a larger impact on lower volume users, instead of larger volume users that typically place more costs on the system. OCA St. 3SR (Water) at 4-5. Lastly, the OCA noted that this proposal violates principles of gradualism by increasing the customer charge by nearly 70%. OCA St. 3 (Water) at 10.

In its rebuttal testimony, the Company acknowledged that its rate design departed from traditional cost of service methods. CUPA W St. 6-R at 5. The Company further admitted that the recommendation of the OCA's witness, *i.e.* allocating the increase to the volumetric portion of the bill, was a reasonable approach. CUPA W St. 6-R at 8. Accordingly, the Settlement adopts the position of OCA witness Mierzwa and allocates the entire water rate increase to the volumetric charge.<sup>6</sup> Settlement ¶ 25.

Under Settlement rates, a typical Penn Estates residential water customer with a 5/8" meter using 4,000 gallons of water of per month will see an increase from \$42.29 to \$54.37 per month, or by \$12.08, or 28.6%. A typical Westgate residential water customer with a 5/8" meter using 4,000 gallons per month will see an increase from \$46.33 to \$54.37 per month, or by \$8.04, or 17.4%. The chart on the following page further compares Settlement rates to current rates and the rates initially proposed by the Company:

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<sup>6</sup> The OCA also notes that I&E's witness, Eryan Sakaya, recommended the same approach to the rate design of water rates. I&E St. 3 (Water) at 13-16. Namely, that CUPA keep the customer charge at current rates and allocate the entire increase to the volumetric portion of the bill. Id. Accordingly, the Settlement is also consistent with I&E's position on the matter.

Community Utilities of Pennsylvania Inc. – Water Division Rate Comparison of a Residential Customer with a 5/8" Meter and Average Usage				
	Current Rates	Initial Proposed Rates	Revised Proposed Rates	Settlement Rates
Penn Estates	\$41.86	\$53.43	\$55.24	\$52.17
Westgate	\$45.53	\$53.18	\$54.98	\$51.82

\* As stated in the Company's initial customer notice, average usage for a Penn Estates residential customer in 2018 was 3,931 gallons and is projected to be 3,764 gallons at the end of the fully projected future test year. Similarly, average usage for a Westgate residential customer in 2018 was 3,890 gallons and is projected to be 3,725 gallons at the end of the fully projected future test year.

### C. Wastewater Rate Design/Cost Allocation (Settlement ¶ 26)

The Settlement provides that the Company shall consolidate the wastewater rates of its two wastewater division service territories, Penn Estates and UIP. Settlement ¶ 26. Moreover, the Settlement adopts I&E's proposal to limit the increase of the availability fee to the system average increase. Settlement ¶ 26, see also I&E St. 3 (Wastewater) at 14. The OCA did not oppose consolidation of the two rate areas and submits that it is appropriate to cap the availability fee to the system average increase.

Under Settlement rates, a typical Penn Estates residential wastewater customer with a 5/8" meter will see an increase from \$46.56 to \$55.39 per month, or by \$8.83, or 19.0%. A typical Utilities Inc. of Pennsylvania residential wastewater customer with a 5/8" meter will see an increase from \$52.59 to \$55.39 per month, or by \$2.80, or 5.3%. The chart below further compares Settlement rates to current rates and the rates initially proposed by the Company:

Community Utilities of Pennsylvania Inc. – Wastewater Division Rate Comparison of a Residential Customer with a 5/8" Meter				
	Current Rates	Initial Proposed Rates	Revised Proposed Rates	Settlement Rates
Penn Estates	\$46.56	\$59.55	\$58.60	\$55.39
UIP	\$52.59	\$59.55	\$58.60	\$55.39

**D. Deferred Charges (Settlement ¶¶ 22, 24)**

The Settlement provides that certain expenses and utility plant will not be included in the Company's rate base. Settlement ¶¶ 22, 24. Specifically, the revenue requirement agreed to in the Settlement for the Company's water operations does not include in rate base (1) rate case expense, (2) tank inspection expense, (3) or the net book value of retired Penn Estates meters. Settlement ¶ 22. Similarly, the revenue requirement agreed to in the Settlement for the Company's wastewater operations does not include in rate base (1) rate case expense, (2) multi-year testing expense, (3) or fees related to the Delaware River Basin Committee permit. Settlement ¶ 24. In other words, the Company is not allowed to earn a return on these costs by including it in rate base.

In its filing, the Company claimed that its rates were designed, in part, by amortizing the above stated expense items and including the unamortized portion of those expenses, as well as the net book value of retired plant assets, in rate base. CUPA W St. 1 at 29-31, CUPA WW St. 1 at 24-26. In its direct testimony, I&E recognized that the proposed treatment of the expense items was improper under traditional ratemaking principles of Pennsylvania. I&E St. 1 (Water) at 16-21, I&E St. 1 (Wastewater) at 17-22. That is, expenses incurred at irregular intervals are traditionally normalized to represent a normal year of expenses for the Company. *Id.* For example, rate case expense is normalized over a period commensurate with the utility's historic filing frequency. See JAMES H. CAWLEY & NORMAN J. KENNARD, A GUIDE TO UTILITY RATEMAKING 112 (2018).

While the Company continued to advocate for adoption of its original proposal, the OCA agreed with I&E stating that it is inappropriate to amortize expense items and include the unamortized portion in rate base. OCA St. ISR (Water) at 6-7, OCA St. ISR (Wastewater) at 6.

Accordingly, the OCA accounted for the removal of these items in rate base in its surrebuttal position. Id.

The Settlement advances the issues raised by I&E and OCA. Recognizing that the expense items should not be amortized, the Settlement excludes from rate base the unamortized portion of the expense items claimed by the Company, as well as removes plant assets, which the Company has admitted are no longer 'used' and 'useful.' Accordingly, these provisions protect the public interest.

**E. Public Fire Protection Charge (Settlement ¶ 28)**

The Settlement states that the Company will continue to impose the present fire hydrant charge for those fire hydrants that meet fire code requirements. Settlement ¶ 28. Additionally, the Settlement provides that the Company will provide a count of billed fire hydrants in each service area and a detailed breakdown of the cost for all fire hydrant maintenance and service in its next rate proceeding. Settlement ¶ 28.

In its initial filing, the Company proposed to remove the public fire protection charge for public fire hydrants located in the Westgate service territory. CUPA W St. 6 at 9. Under its current tariff, Westgate charges public customers \$28.13 per hydrant per month. See Supplement No. 4 to Tariff Water – Pa. P.U.C. No. 1, Second Revised Page No. 8. That amounts to approximately \$25,655 in revenue that would otherwise have to be collected from existing customers. CUPA W St. 6-RJ at 2. The Company reasoned it would be inappropriate to collect a public fire protection charge considering some of the hydrants cannot deliver 500 gallons per minute of flow at 20 pounds per square inch (psi) for two hours. CUPA W St. 6-R at 9-10. Thus, the Company was concerned about being liable for collecting costs for a service that it may not be able to provide. Id., at 10.

In response, the OCA noted that out of the 76 hydrants within the Westgate service territory, only 15 of them could not meet the fire code flow requirements. OCA St. 3SR (Water) at 6. The OCA recommended that the Company continue to charge those hydrants that can meet the fire code requirements. Id., at 6-7. The Settlement adopts the OCA's position and provides for additional reporting requirements in the Company's next base rate proceeding for further analysis and discussion. Settlement ¶ 28.

**F. Reporting on Plant Additions (Settlement ¶ 29)**

The Settlement provides that the Company will update its exhibits related to the summary of plant in service for the years ended December 31, 2019, and December 31, 2020. Settlement ¶ 29, see also CUPA W Exh. PAB-1 at 1-17, CUPA WW Exh. PAB-1 at 1-17. This provision is consistent with Section 315 of the Public Utility Code, which states that a utility utilizing a future test year and an FPFTY shall provide "appropriate data evidencing the accuracy of the estimates contained in the future test year or a fully projected future test year..." 66 Pa. C.S. § 315(e).

**G. Purchased Water Adjustment Clause (Settlement ¶¶ 27, 30)**

The Settlement states that if the City of Bethlehem files a Section 1308(d) rate increase prior to CUPA's next base rate proceeding, the Company shall initiate a petition proceeding before the Commission within 120 days of the City of Bethlehem's filing to examine whether the Purchased Water Adjustment Clause (PWAC) should be consolidated between the Company's two water division service territories or eliminated altogether. Settlement ¶ 30.

This provision addresses the concern raised by I&E in its surrebuttal testimony, namely that the PWAC should be applied to both service territories. I&E St. 3-SR (Water) at 4. Presently, the Westgate system operates entirely off of purchased water from the City of

Bethlehem. Id., at 3. Accordingly, the PWAC allows the Company to flow-through any changes of the cost to purchase water directly to Westgate customers. Id., at 2-3. In the current filing, the Company did not propose to apply the PWAC to Penn Estates customers, even though it sought consolidation of rates. Id. I&E's recommendation was borne from consumer testimony at the Public Input Hearing held in the Westgate service territory. Id., at 3. Specifically, the customer argued that given the Westgate service territory operates entirely off of purchased water from the City of Bethlehem, it is inappropriate to be burdened by the costs to maintain the water system in the Penn Estates service territory. Tr. at 154-55. Accordingly, I&E reasoned that if full consolidation is to occur, the PWAC should also be consolidated and applied to both Westgate and Penn Estates customers. I&E St. 3-SR (Water) at 4.

The Settlement reaches a compromise position. Accordingly, if the City of Bethlehem increases its rates, effectively increasing the cost to purchase water for Westgate customers, the Joint Petitioners agree that a proceeding will be initiated that will permit each party to present evidence regarding whether the PWAC should continue to apply only to Westgate customers, whether consolidation is appropriate, or whether the PWAC should be eliminated entirely. If the City of Bethlehem, however, does not increase rates prior to the next CUPA base rate proceeding, the parties reserve the right to address the issue in CUPA's next base rate proceeding. Accordingly, this provision is in the public interest.

The Settlement also sets the baseline items used to determine the level of purchased water expense currently recovered through rates. Settlement ¶ 27. This allows the Company to determine if and when it should implement the PWAC to recover costs from Westgate customers that are in excess of present rates. This is a routine, typical provision included in settlements regarding water utility rates that implement a PWAC. See e.g. Pa. PUC v. Community Utilities

of Pennsylvania Inc. – Water Division, Docket No. R-2016-2538660, Joint Petition for Full Settlement of Rate Proceeding at ¶ 14(h) (Sept. 13, 2016).

### III. CONCLUSION

The OCA submits that the terms and conditions of the proposed Settlement of these rate investigations, taken as a whole, represent a fair and reasonable resolution of the issues raised by the OCA in this matter. Therefore, the OCA submits that the Settlement should be approved by the Commission without modification as being in the public interest and in the interest of CUPA's ratepayers.

Respectfully Submitted,



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DATE: September 6, 2019  
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