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January 10, 2020

VIA HAND DELIVERY

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

**Re: Pa. Public Utility Commission v. Twin lakes Utilities Inc.
Docket No. R-2019-3010958
MAIN BRIEF ADDENDUM (FINDING OF FACTS, ETC.)**

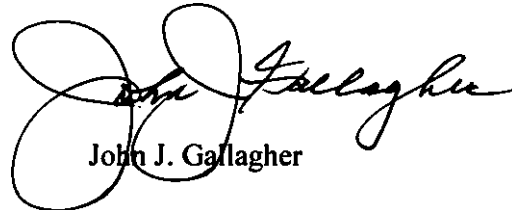
Dear Secretary Chiavetta:

On behalf of the Twin Lakes Utilities, Inc. ("Twin Lakes") please find enclosed a copy of and addendum to the Twin Lakes Main Brief in this matter containing the Proposed Finding of Facts, Conclusions of Law and Ordering Paragraphs which were inadvertently omitted from the Main Brief.

If you have any questions concerning this filing, please contact me at your convenience.

Copies of this document has been served on the parties listed in the attached Certificate of Service.

Sincerely,



John J. Gallagher

cc: Certificate of Service
Mr. Jay Kooper, Esq.
Mr. A. Bruce O'Connor

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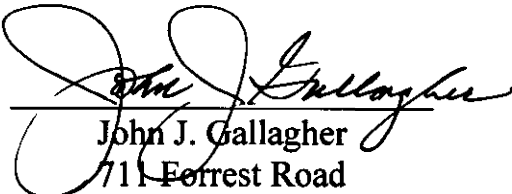
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Dated: January 10, 2020


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Lakes Utilities, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

vs.

Twin Lakes Utilities, Inc.

Docket No. R 2019-3010958

C-2019-3011845

C-2019-3011969

C-2019-3012087

C-2019-3012169

C-2019-3012221

C-2019-3012272

C-2019-3012332

C-2019-3012399

C-2019-3012487

C-2019-3012659

C-2019-3012667

**ADDENDUM TO MAIN BRIEF
ON BEHALF OF
THE TWIN LAKES UTILITIES, INC.**

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**TWIN LAKES UTILITIES INC. PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, and ORDERING PARAGRAPHS
DOCKET NO. R- 2019- 2010656**

I FINDINGS OF FACT

1. Twin Lakes Utilities Inc. is a jurisdictional water distribution company providing water service to approximately 114 residential customers in Pike County, Pennsylvania. TLU Statement No. 3 at 21.
2. Twin Lakes Utilities Inc. presented the testimony of A. Bruce O'Connor, TLU Statements No.-1 (direct) and Michele L. Tilley TLU-Statement No.2 (Direct) and TLU Statement No MLT-2R (rebuttal) and Exhibits MLT-A-G; Robert K Fullager, TLU Statement No.-3(Direct) and TLU Statement No. RFK-2-R (Rebuttal).
3. OCA submitted the testimony of Stacy L Sherwood, OCA Statement No 2 (Direct): Aaron L. Rothschild , OCA Statements 1 (Direct) and 1-R (Rebuttal); Terry L. Fought OCA Statement No. 3 (Direct).
4. John Zalesky, Fixed Utility Financial Analyst in the Technical Division of the PA P.U.C.'s Bureau of Investigation and Enforcement ("I&E"), testified on behalf of I&E, I&E Statement No. 1 (Direct) and I&E Statement No. 1-SR (Surrebuttal); Christopher M. Henkel, I&E Statement No. 2 and I&E Statement N. 2-SR; Esyan A. Sakaya I&E Statement No. 3 and I&E Statement No. 3-SR (Surrebuttal).
5. Middlesex Water Company acquired the Twin Lakes system in 2009. At that time, the Twin Lakes system was subject to frequent boil water advisories issued by the

Pennsylvania Department of Environmental Protection and water service was frequently suspended due to operational problems. TLU Statement No. 1 ABO-1 at 3.

6. Following the acquisition of Twin Lakes, it became apparent that the condition of the assets was significantly poorer than had been represented by the former owner or had been visible from the inspection and assessment that was part of the due diligence work performed by Middlesex professionals. TLU Statement No. 1 at 3.

7. As detailed in MLT Exhibit Schedule E, the Company has made significant investment in utility plant in order to ensure the delivery of a safe and adequate water supply to its customers. Net of retirements, utility plant in service increased by \$476,008, or 49.2% to \$1,443,561 as of March 31, 2019. TLU Statement No 2.

8. The Twin lakes system serves 114 customers and is comprised of one functional well (Well No.2) , one non-functional well (Well No.1), a small treatment /pumping station including an atmospheric 20,000gallon storage tank integral to the station, and approximately 3.7 miles of water main of various diameter and approximately 120 active and inactive services combined. TLU Statement No.3 at 5

9. The Twin Lakes system is continually plagued by excessive unaccounted –for water loss, (ranging from 50% to 87%) due to leaks. The leaks are the result of a combination of factors including age and quality of the original pipe material and poor quality workmanship associated with leak repairs prior to the acquisition by Middlesex. TLU Statement No. 3 at 2

10. The over pumping due to the excessive leak rate in the system causes the wells to constantly over-pump which in turn, stresses the wells to the point where their operational viability is at risk. The over-pumping due to the excessive leak rate in the

distribution system was a contributing factor in the collapse of well No.1 rendering it non-usable. Consequently, this condition has increased the stress of Well No. 2, the only remaining well serving Twin Lakes customers. TLU Statement No.3 at 2

11. Twin Lakes has developed a 4.8 million five year capital improvement plan. TLU Statement No. 3 at 3

12 All of the projects in Twin Lakes five year capital improvement project are necessary, prudent and reasonable in order to provide safe, adequate and proper service to the Twin Lake' customers TLU Statement No. 3 at 4

13. The debt cost rate of 7% for Twin Lakes represents a stated interest rate on a \$1,000,000 Promissory Note held by Middlesex which is payable on demand at the option of the holder. TLU Statement No. 2 at 6

14. Twin Lakes did not engage an expert to assist with the development of a proposed fair rate of return on equity due to the high cost of such service relative to its impact on the total cost of this proceeding. Given the extremely small size of Twin Lakes, coupled with the most recently published authorized ROE ranging between 8.02- 10.58% for a Pennsylvania water utility (PAPUC Quarterly Earnings Summary Report for the year ending March 31, 2019), 11.0% is a fair and reasonable expected return to help Middlesex maintain any continued in making ongoing debt or equity investment in Twin Lakes. TLU Statement No. 2 at 6 & 7

15. Twin Lakes is unable to establish a credit arrangement at any reasonable cost with any financial institution as a stand-alone entity. This is due to its inability to demonstrate that it has the net income and cash flow to support debt repayment. TLU Statement No. 2 at 5

16. The Unaccounted-for Water rate continues to increase in spite of Twin Lakes' replacement and repair work. This is a clear indication that the entire system is in need of replacement. Given that the entire system is in need of replacement and therefore incapable of being pressurized without an extraordinary amount of leakage, the only means possible for maintaining water quality in the system and avoiding potential illness to customers is to keep water chlorinated and mains under pressure. TLU Statement RKF-2R at 3

17. The quality of service concerns raised at the public input hearings in Shohola on October 17, 2019 primarily focused on the Company's dissemination of boil water advisories, primarily in the summers of 2018 and 2019, in connection with necessary system repairs that needed to be made during those periods. The Company's boil water recommendation is activated whenever water mains are required to be dewatered for necessary repair work. The potential for untreated groundwater to enter water mains and service lines when depressurized is elevated which is due to the extremely poor condition of the water system. Although not a regulation, it is the Company's internal policy to issue boil water advisories where there is any potential at all for groundwater to enter the mains. TLU Statement RKF-2R, P5 & 6

18. Subsequent to the acquisition it was determined that the pump station lacked a properly functioning master meter. The previous owner had no information in relation to the well pumps and their service or maintenance records. As a result it was impossible for Twin Lakes Utilities, Inc. to ascertain what the Unaccounted-for-Water rate was at the time of the acquisition. TLU Statement RKF-2R at 6

19. Shohola Township has an ordinance that prohibits the installation and use of private wells on parcels of property smaller than one acre. The Company considered the installation of individual private wells in Sagamore estates and concluded that such an

installation would present too high a public health risk for its customers because of the Township ordinance. TLU Statement No. RKF-2R at 7

20. The adoption of the OCA and I&E recommendations place the operational viability of the system at significant risk of complete failure absent the granting of rates that have been labelled as “unaffordable for the Twin Lakes customer base. TLU Statement No RKF-2R at 2

21. The Company has consistently included an acquisition adjustment in each of its two previous base rate petition. TLU Statement No. MLT-2R at 2

22. Rate case expense as well as other financial data to calculate the revenue requirement should match the period of time that rates are anticipated to be in effect. TLU Statement No. MLT-2R at 4

23. Twin Lakes parent Company, Middlesex, has access to capital markets and has reluctantly extended credit to Twin Lakes in order to maintain service for the Twin Lakes customers. TLU Statement No. 2 at 5

24. In addition to providing equity capital . Middlesex, has acted as Twin Lakes’ financial institution and Middlesex cannot commit to continuing this role beyond 2009. TLU Statement No. 2 at 5

25. A repayment guarantee from Middlesex Water Company would be required to establish a more favorable credit arrangement with any independent financial institution. Middlesex is unwilling to provide such a guarantee. TLU Statement No. 2 at 6

27. The amount of bad debt expense included in rates should be reflective of what the Company will experience during the time period those rates will be in effect. TLU Statement No. MLT 2-R at 5

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II CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. § 1308(d), 66 PA C.S. § 1308(d)

2. The party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is well-established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa.Cmwlth. 1990). Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a).

3. TLU has the burden of proving it has met the requirements for approval of its proposed increase in rates.

4. The burden of proof is comprised of two distinct burdens: the burden of production and the burden of persuasion. The burden of production tells the adjudicator which party must come forward with evidence to support a particular proposition. See *In re Loudenslager's Estate*, 430 Pa. 33, 240 A.2d 477, 482 (1968). The burden of persuasion determines which party must produce sufficient evidence to convince a judge that a fact has been established, and it never leaves the party on whom it is originally cast. *Reidel v. County of Allegheny*, 633 A.2d 1325, 1329 n. 11 (Pa.Cmwlth. Ct. 1993).

5. The Company has sustained its burden of proving that it should be granted an increase in rates 66 PA C.S. §1308 (d).

6. The rates, terms and conditions contained in Twin Lakes Petition for an Increase in Rates at Docket No. R-2019-3010958 are just, reasonable and in the public interest.

III PROPOSED ORDERING PARAGRAPHS

1. That Twin Lakes Utilities Inc. is authorized to file tariffs, tariff supplements, or tariff revisions containing rates, provisions, rules and regulations, consistent with findings contained in this Recommended Decision to produce revenues not in excess of \$345,307.
2. That Twin Lakes Utilities Inc.'s tariff supplements, or tariff revisions may be filed upon less than statutory notice, and pursuant to the provisions of 52 Pa Code §§ 53.31 and 53.101 may be filed to be effective for service rendered on and after the date of entry of the Commission's Order.
3. That Twin Lakes Utilities Inc. shall file detailed calculations with its tariff filing, which shall demonstrate that the filed rates comply with the proof of revenue, in the form and manner customarily filed in support of compliance tariffs.
4. That Twin Lakes Utilities Inc. shall comply with all directives , conclusions and recommendations contained in the instant Recommended Decision that are not the subject of specific ordering paragraphs.
5. That Twin Lakes Utilities Inc. shall allocate the authorized increase in operating revenue to each customer class in the manner prescribed in this Recommended Decision.
6. That the Complaint of the Office of Consumer Advocate, at Docket No. C-2019-3011845, is dismissed.

7. That the Complaint of Irene Blanchard at Docket No. C-2019-3011969 is dismissed.
8. That the Complaint of Jeffrey Shatt at C-2019-3012087 is dismissed
9. That the Complaint of Ciro Matrecano at C-2019-3012169 is dismissed
10. That the Complaint of Neil and Kathleen Joyce at C-2019-3012221 is dismissed.
11. That the Complaint of Lisa Celenza at C-2019-3012272 is dismissed.
12. That the Complaint of Tami DeFrancesco at C-2019-3012332 is dismissed.
13. That the Complaint of Virginia Pfeiffer at C- 2019-3012399 is dismissed.
14. That the Complaint of Charles Dellert at C-2019-3012487 is dismissed.
15. That the Complaint of James Gelardi at C- 2019- 3012659 is dismissed.
16. That the Complaint of Frank and Shuko Kashimba at C-2019-3012667 is dismissed.
17. That the Commission's inquiry and investigation in Docket No. R-2019-3010958 et al
should be terminated and the record closed.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in the manner indicated below, and in accordance with the requirements of § 1.54 (relating to service by a party).

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