



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Adeolu A. Bakare  
Direct Dial: 717.237.5290  
Direct Fax: 717.260.1744  
abakare@mcneeslaw.com

March 23, 2020

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

**VIA ELECTRONIC FILING**

**RE: Citizens' Electric Company of Lewisburg, PA; Docket No. R-2019-3008212**

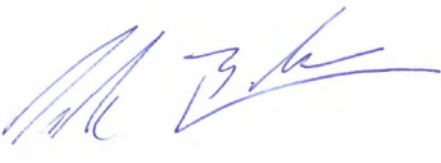
Dear Secretary Chiavetta:

Please find attached for filing with the Pennsylvania Public Utility Commission the Reply Exceptions of Citizens' Electric Company of Lewisburg, PA ("Citizens") in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this filing. Due to the current state of emergency in effect throughout the Commonwealth, Citizens' has notified all parties that it will provide only electronic service of the Reply Exceptions and has received no objections. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By 

Adeolu A. Bakare

c: Administrative Law Judge Steven K. Haas (via E-Mail)  
Administrative Law Judge Benjamin Myers (via E-Mail)  
Office of Special Assistants at [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov)  
Certificate of Service

[www.McNeesLaw.com](http://www.McNeesLaw.com)

HARRISBURG, PA • LANCASTER, PA • SCRANTON, PA • STATE COLLEGE, PA • COLUMBUS, OH • FREDERICK, MD • WASHINGTON, DC

**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 accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA E-MAIL**

Sharon E. Webb, Esq.  
Daniel G. Asmus, Esq.  
Assistant Small Business Advocate  
Commonwealth of Pennsylvania  
Office of Small Business Advocate  
Forum Place  
555 Walnut Street, 1<sup>st</sup> Floor  
Harrisburg, PA 17101  
[swebb@pa.gov](mailto:swebb@pa.gov)  
[dasmus@pa.gov](mailto:dasmus@pa.gov)

Brian Kalcic  
Excel Consulting  
225 South Meramec Avenue, Suite 720  
St. Louis, MO 63105  
[Excel.consulting@sbcglobal.net](mailto:Excel.consulting@sbcglobal.net)  
*OSBA Consultant*

John Coogan, Esq.  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
Harrisburg, PA 17120  
[jcoogan@pa.gov](mailto:jcoogan@pa.gov)

Christy M. Appleby, Esq.  
Aron J. Beatty, Esq.  
Darryl A. Lawrence, Esq.  
Santo G. Spataro, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place - 5th Floor  
Harrisburg, PA 17101-1921  
[CApAppleby@paoca.org](mailto:CApAppleby@paoca.org)  
[ABeatty@paoca.org](mailto:ABeatty@paoca.org)  
[DLawrence@paoca.org](mailto:DLawrence@paoca.org)  
[SSpataro@paoca.org](mailto:SSpataro@paoca.org)



---

Adeolu A. Bakare

Counsel to Citizens' Electric Company of Lewisburg, PA

Dated this 23<sup>rd</sup> day of March, 2020, at Harrisburg, Pennsylvania.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2019-3008212
	:	
Citizens' Electric Company of Lewisburg, PA	:	

---

**REPLY EXCEPTIONS OF  
CITIZENS' ELECTRIC COMPANY OF LEWISBURG, PA**

---

Pamela C. Polacek (PA I.D. No. 78276)  
Adeolu A. Bakare (PA I.D. No. 208541)  
Matthew L. Garber (PA I.D. No. 322855)  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 260-1744  
ppolacek@mcneeslaw.com  
abakare@mcneeslaw.com  
mgarber@mcneeslaw.com

Counsel to Citizens' Electric Company of  
Lewisburg, PA

Dated: March 23, 2020

**TABLE OF CONTENTS**

	<b>Page</b>
I. INTRODUCTION .....	1
II. REPLY EXCEPTIONS.....	2
A. <u>Reply Exception No. 1</u> : I&E's Exception No. 1 is incorrect; the R.D. correctly applied the 1/8 method to adjust the Company's Cash Working Capital. ....	2
B. <u>Reply Exception No. 2</u> : The Commission should deny I&E's Exception No. 2 and OCA's Exception No. 2 and approve the Company's expense claim for Maintenance of Overhead Lines/Vegetation Management.....	2
C. <u>Reply Exception No. 3</u> : I&E's Exception No. 3 and OCA's Exception No. 6 fail to account for record evidence supporting the Company's proposed rate case normalization period. ....	4
D. <u>Reply Exception No. 4</u> : OCA's Exception No. 3 (Customer Records and Collection Expense) misstates the evidentiary record and should be denied. ....	6
E. <u>Reply Exception No. 5</u> : OCA's Exception No. 5 (Employee Pension and Benefits Expense) fails to accurately account for Commission precedent and should be denied..	6
F. <u>Reply Exception No. 6</u> : The Commission should deny I&E's Exception No. 4 and OCA's Exception No. 7 as inconsistent with the record evidence of size risk. ....	7
G. <u>Reply Exception No. 7</u> : I&E's Exception No. 5 and OCA's Exception No. 8 should be rejected in favor of the R.D.'s well-reasoned recommendation to approve a 25-basis point performance adjustment for the Company.....	13
H. <u>Reply Exception No. 8</u> : I&E's Exception No. 6 should be denied as the R.D. correctly rejected I&E's recommendation that Citizens' be required to provide certain accounting reports.....	14
I. <u>Reply Exception No. 9</u> : The Commission should deny OCA's Exception No. 1 and approve the Company's proposed rate base. ....	15
J. <u>Reply Exception No. 10</u> : OCA's Exception No. 9 should be denied as the R.D. correctly determined that Citizens' Allocated Class Cost of Service Study is reasonable and consistent with cost causation precedent. ....	16
K. <u>Reply Exception No. 11</u> : OCA's Exception No. 11 should be denied because the Company's proposed revenue allocation adequately moves all customers towards cost-of-service.....	20
III. CONCLUSION.....	21

## I. INTRODUCTION

On July 1, 2019, Citizens' Electric Company of Lewisburg, Pennsylvania ("Citizens" or "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") Supplement No. 132 to Tariff Electric-Pa. PUC No. 14 ("Supplement No. 132"), proposing to increase annual revenues by \$792,246. Citizens' Statement No. 1, Exhibit\_\_(HSG-1), Schedule B6-1. In support of this filing, Citizens' submitted a Statement of Reasons, the supporting information required by 52 Pa. Code § 53.52(a), (b), and (c), and various other information.<sup>1</sup>

A procedural history for this proceeding was provided in Citizens' Main Brief, which was filed on January 8, 2020. The Bureau of Investigation and Enforcement ("I&E"), Office of Consumer Advocate ("OCA"), and Office of Small Business Advocate ("OSBA") also filed Main Briefs on that date, with each party filing a Reply Brief on January 22, 2020.

On February 28, 2020, Administrative Law Judges ("ALJs") Haas and Myers issued a Recommended Decision ("R.D.") in this proceeding. On March 13, 2020, Citizens' filed Exceptions to the ALJs' R.D., asking that the Commission reverse or modify several elements of the R.D., and otherwise accept the R.D. in its Final Order. On March 12 and 13, 2020, I&E and OCA, respectively, also filed Exceptions in response to the R.D.<sup>2</sup>

Citizens' hereby files the following Reply Exceptions in response to the Exceptions filed by I&E and OCA. The Company respectfully requests that the Commission reject the Exceptions

---

<sup>1</sup> In Rebuttal Testimony, Citizens' subsequently revised its proposed revenue increase to approximately \$701,000, reflecting rate of return and rate base adjustments to the as-filed request. *See* Citizens' Main Brief at 1. Citizens' provided an updated Schedule C1 showing these adjustments. *Id.*

<sup>2</sup> OSBA did not file Exceptions in this proceeding.

of I&E and OCA, grant Citizens' Exceptions, and otherwise adopt the ALJs' Recommended Decision.

## II. REPLY EXCEPTIONS

**A. Reply Exception No. 1: I&E's Exception No. 1 is incorrect; the R.D. correctly applied the 1/8 method to adjust the Company's Cash Working Capital.**

I&E claims the R.D.'s downward adjustment of \$5,005 to Cash Working Capital ("CWC") should be increased to \$10,163. I&E Exceptions at 4. Review of I&E's Exception shows I&E improperly applied the 1/8 method for determining CWC. I&E Exceptions at 4. I&E multiplied the expense reductions in the R.D.'s Table II by 1/8 to arrive at its proposed CWC adjustment of \$10,163. I&E Exceptions at 4. To the contrary, the R.D. correctly multiplied its total proposed Operations & Maintenance ("O&M") expense of \$2,701,802 by 1/8 to determine a total CWC of \$337,716, exactly \$5,005 less than the Company's \$342,721 claim. *See* R.D. at Table VI. Therefore, the R.D.'s \$5,005 calculation represents the correct CWC adjustment based on the expenses recommendations approved in the R.D.

For the reasons set forth above, I&E's Exception No. 1 should be denied. The Commission should approve the calculation in the R.D. subject to further adjustment based on the total O&M expense approved for the Company in this proceeding.

**B. Reply Exception No. 2: The Commission should deny I&E's Exception No. 2 and OCA's Exception No. 2 and approve the Company's expense claim for Maintenance of Overhead Lines/Vegetation Management.**

The R.D. accepted the Company's expense claim for Maintenance of Overhead Lines/Vegetation Management Expense (Account No. 593) except for the recommendation to disallow the 3% inflation adjustment for the Fully-Projected Future Test Year ("FPFTY"), which was addressed in the Company's Exceptions. R.D. at 29; Citizens' Exceptions at 8. OCA and I&E except to the R.D.'s finding for different but similarly inapposite reasons. I&E alleges that the

Company failed to explain the increased expense for the Material subcategory of Account No. 593 expense; OCA argues that the R.D.'s allowance ignores historical variability in the Company's annual Account No. 593 expense. I&E Exceptions at 5; OCA Exceptions at 5. Both arguments overlook record evidence and should be denied. The Commission should adopt the R.D.'s conclusion that the Company furnished substantial evidence demonstrating it will incur the projected expense to address increasing contractor costs and the escalating spread of the Emerald Ash Borer. *See* R.D. at 29.

I&E alleges that the R.D. overstates the Company's expense claim by \$9,564 because the increase to the Material subcategory was not adequately explained on the record. I&E Exceptions at 5. I&E seems to acknowledge the Company's testimony explaining that contractor costs are recorded to the Material expense subcategory, but in a circular fashion suggests that the Material subcategory would not exist if it were simply a subcategory of contractor expense. I&E Exceptions at 5. Citizens' Witness John Kelchner testified that some overlap exists as outside contractor costs, as well as material used in maintenance activities, are recorded under the Material subcategory. Citizens' Main Brief at 49; R.D. at 29. While an argument could be made that the Company should explore whether outside contractor costs should be recorded under a single subcategory, separate from Material, this accounting question does not warrant adjusting the Company's overall Account No. 593 expense, particularly where the R.D.'s recommended allowance is consistent with the actual annualized Future Test Year ("FTY") (2019) expense. R.D. at 29-30.

Similarly, OCA's proposed adjustment based on historical expense variability ignores the Company's explanation for the higher expense projections. OCA attempts to counter the Company's arguments supporting increasing tree-trimming expenses by alleging that the historical costs show significant variance rather than an upward trend. OCA Exceptions at 6. As detailed in

the Company's Main Brief, the Company benefitted from errors in a contractor bid enabling the Company to secure tree-trimming services at highly favorable pricing. Citizens' Main Brief at 49. Based on the bids received for 2020 and the need to identify and remove trees damaged by the continued penetration of the Emerald Ash Borer across Citizens' service territory, the Company will incur increasing Account No. 593 expense in the FPPTY and beyond. *See id.*

For the aforementioned reasons, I&E Exception No. 2 and OCA's Exception No. 2 should be denied. The Commission should adopt the R.D.'s recommendation as modified by the Company's Exceptions to include the 3% inflation adjustment for the FPPTY expense.

**C. Reply Exception No. 3: I&E's Exception No. 3 and OCA's Exception No. 6 fail to account for record evidence supporting the Company's proposed rate case normalization period.**

The ALJs recommended that the Commission accept Citizens' expense claim for rate case expense to be normalized over three years. R.D. at 43. I&E and OCA contend that the ALJs' decision to approve the Company's request to normalize the rate case expense for a 36-month period instead of their respectively proposed 48 and 45-month periods is an error and a deviation from the Commission's practice of setting a normalization period based on historic filing frequency. I&E Exceptions at 7-8; OCA Exceptions at 13. I&E also contends that the Company provides no support for the appropriateness of a 36-month normalization period. I&E Exceptions at 7.

The Company presented more than adequate evidence to support the requested 36-month normalization period for rate case expense. *See* Citizens' Main Brief at 54-57. Company Witness Mr. Gorman explained that 48 or 45 months is not the most typical filing frequency, nor is it the anticipated time frame for Citizens' next base rate filing. *See id.* at 56. Instead, the Company's continued expenses related to reliability enhancing projects such as capital replacements combined with limited prospects for load growth leads to a reasonable expectation of a 36-month period



between rate cases. Citizens' Main Brief at 56. Mr. Kelchner, another Company witness, also emphasized declining prospects for additional revenues through load growth and reiterated that the Company continues to incur expenses such as capital expenses and tree trimming costs. *Id.* at 56-57. The Company will need to file a rate case to begin earning a return on the capital investments and to reflect the ever-increasing right of way maintenance costs in rates. I&E and OCA both focus on the average of the Company's filing intervals to support their proposed normalization periods, with I&E counting the Company's 2007, 2010, and 2016 rate filings and OCA counting the 2007, 2010, 2016, and 2019 rate filings. I&E Exceptions at 6-8; OCA Exceptions at 13. However, the 75-month gap between the 2010 and 2016 rate cases was not a normal occurrence and, as such, should not be considered in an average of our historic filings. Citizens' Main Brief at 56. Thus, both historic frequency and future expectations support the 36-month period used by the Company and adopted in the R.D.

I&E and OCA's assertions are also incorrect because, as discussed in the Company's Main Brief, historic filing frequency is one factor that the Commission considers in determining rate case normalization, but it is not the only factor. Ratemaking is prospective in nature, and the goal of ratemaking is to reasonably reflect future conditions when new rates are in effect. Citizens' Main Brief at 55; *see e.g., Columba Gas v. Pa. Pub. Util. Comm'n*, 613 A.2d 74, 76 (Pa. Cmwlth. 1992), *aff'd*, 636 A.2d 627 (Pa. 1994). As such, the Commission may consider other factors to ensure its final decision reasonably reflects future conditions when new rates take effect. The Company, therefore, urges the Commission to accept the ALJs' recommendation and approve Citizens' claim for rate case expense to be normalized over a 36-month period.

**D. Reply Exception No. 4: OCA's Exception No. 3 (Customer Records and Collection Expense) misstates the evidentiary record and should be denied.**

OCA argues that the R.D.'s recommended expense allowance of \$437,188 for Customer Records & Collection Expense would overstate the Company's expenses by including non-recurring employee training expenses. OCA Exceptions at 8. OCA bases this argument on the Company's explanation that it will incur employee training expenses throughout 2019 and 2020. *Id.* However, the Company's response must be considered in the appropriate context. The record shows that OCA relies on the Company's response to an interrogatory specifically asking about employee training expense over the FTY and FPFTY. *See* OCA Statement No. 1, at 6 *citing* Citizens' response to I&E-RE-9-D; *see* I&E Statement No. 1, Exhibit No. 1; Schedule 5 *attaching* Citizens' response to I&E-RE-9-D. The explanation of the FTY and FPFTY employee training expenses occurring over 2019 and 2020 was not exclusive of additional employee training expenses in the subsequent years (2021 and beyond). Rather, the Company's testimony on future retirements supports its claim that employee training expense will continue beyond the FPFTY. *See* Citizens' Reply Brief at 16.

For the reasons set forth above, OCA's Exception No. 3 should be denied. The Commission should adopt the R.D.'s recommendation as modified by the Company's Exceptions to include the 3% inflation adjustment for the FPFTY expense.

**E. Reply Exception No. 5: OCA's Exception No. 5 (Employee Pension and Benefits Expense) fails to accurately account for Commission precedent and should be denied.**

OCA excepts to the R.D.'s recommendation to approve Citizens' \$10,300 claim for Employee Pension and Benefits Expense (Account No. 926) as inconsistent with Commission precedent. OCA Exceptions at 11. In attempting to support this argument, OCA misstates Commission precedent as generally disfavoring recovery of "entertainment" expenses. *See id.*

The R.D. properly relied on the Company's more accurate review of Commission precedent indicating that the Commission has denied recovery of entertainment expenses but has also approved such expenses where the activities are related to employee recognition. R.D. at 38-39. Contrary to OCA's assertion that recovery of entertainment-related expenses conflicts with Commission precedent, the Commission in its order at *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2017-2640058, at 160 (Order entered Oct. 25, 2018) ("UGI Order") relied on established Commission precedent to find that "a utility could claim employee activity as an expense where the employee activity is for the purpose of employee recognition." See Citizens' Main Brief at 53 citing UGI Order at 70; see also *Pa. Pub. Util. Comm'n. v. York Water Co.*, 62 Pa. P.U.C. 459 (1986); and *Pa. Pub. Util. Comm'n v. Columbia Water Company*, Docket No. R-20132360798 (Order entered January 23, 2014).

Citizens' Main Brief presented detailed evidence affirming that the Company's employee recognition events are attended by senior staff and intended to recognize the achievements of the Company's staff in order to bolster morale and, ultimately, incentivize high levels of customer service. Accordingly, the Commission should deny OCA's Exception No. 5 and adopt the R.D.'s recommendation as modified by the Company's Exceptions to include the 3% inflation adjustment for the FPFTY expense.

**Reply Exception No. 6: The Commission should deny I&E's Exception No. 4 and OCA's Exception No. 7 as inconsistent with the record evidence of size risk.**

***1. Introduction***

As discussed in the Company's Exceptions, the R.D. recommended approval of a 9.74% Return on Equity ("ROE") for the Company, representing the higher end of one standard deviation from the average of the mean and median of the Company's Discounted Cash Flow ("DCF") plus a 0.25% performance adjustment. R.D. at 78. The R.D. determined that the standard deviation

method was necessary to account for the Company's size risk. *Id.* I&E and OCA filed Exceptions opposing the R.D.'s use of the standard deviation method. I&E argues that the R.D. erred in applying the standard deviation method because the Company failed to meet its burden of proving the existence of size risk. I&E Exceptions at 9. OCA argues that size merits no adjustment and the R.D.'s result violates the maximum DCF result established by its CAPM analysis. OCA Exceptions at 16, 18. Both arguments are misguided and should be rejected. As described in the Company's Exceptions, even the R.D.'s analysis fails to fully reflect the Company's size risk. Citizens' Exceptions at 24. Granting the I&E or OCA Exceptions would improperly result in a historically low ROE for a regulated utility that is not reflective of current market conditions, the Commission's own calculation of the Distribution System Improvement Charge ("DISC") ROE, or the UGI Order. Citizens' Main Brief at 77-78.

**2. *I&E's Exception No. 4 relies on a misstatement of the burden of proof.***

I&E claims the R.D. erred in applying the standard deviation method as a size adjustment because the Company failed to meet its burden of showing size risk exists for utilities. I&E Exceptions at 9. This is in error. The Company bore the burden of proof only to its argument that size risk exists for small companies. *Pa. PUC v. Duquesne Light Company*, Docket No. R-2018-3000124 (Order entered December 20, 2018) ("Duquesne Order") at 71. I&E bore the burden of proof to support its counterargument that even if small companies face size risk, utilities do not. The ALJs appropriately determined that I&E failed to support its counterargument. R.D. at 72.

Although I&E is correct that the Company bears the burden of proof as to company size risk, I&E incorrectly claims the Company failed to meet its burden. I&E Exceptions at 8. The Company proposed a size adjustment based on the premise that size risk affects all companies and supported this claim with numerous citations to financial literature and market data. Citizens' Main Brief at 94-96 *citing* Joint Statement No. 2 at 42-43; *see* R.D. at 72-73. I&E responded to the

Company's claim by concurring that the Company provided evidence of general size risk, but alleging that utilities are an exception to the rule. *See* I&E Statement No. 2 at 41. With regards to the counterargument that utilities are exempt from the general rule of size risk, I&E bears the burden of proof. Duquesne Order at 71.

Even if the Company additionally bore the burden of proof as to I&E's counterargument, it met its burden of proving, by a preponderance of the evidence, that size risk exists for utilities. Citizens' Main Brief at 97-99. I&E, without citing to any expert witness testimony or other authority, presents numerous claims purporting to establish factors that mitigate against size adjustments for utilities. I&E Exceptions at 9. However, I&E ignores the basic fact that all the identified characteristics are uniform between large and small utilities (*e.g.* both large and small utilities can use a FPFTY and have captive customer bases). *See id.* Accordingly, these factors do not account for relative differences between large and small utility companies such as economies of scale and load diversity. *See* Citizens' Main Brief at 94-95. The smaller and less diverse customer base exposes smaller utilities like Citizens' to higher risks of substantial financial impacts from losing a single large customer or having a significant revenue loss from increased energy efficiency, solar net metering, and distributed generation. *See id.*

Rather than rely solely on published literature, Company Witness D'Ascendis also conducted an unrebutted study demonstrating correlation between utility size and risk. Citizens' Main Brief at 98-99. All parties acknowledge Mr. D'Ascendis' size study shows an R-Squared of 0.09, meaning that 9% of utility risk is attributable to size. R.D. at 72. While the parties also point out that 0.09 is not generally considered a strong explanatory result, Mr. D'Ascendis clarified that the 0.09 R-Squared is higher in comparison to the R-Squared of the I&E and OCA proxy group companies' beta coefficients, which means that differences in size explain more about utility risk

than beta coefficients, which is a measure used by all parties in this proceeding. Citizens' Main Brief at 99. Therefore, Mr. D'Ascendis' size study presents unrebutted evidence of an inverse relationship between utility size and risk in direct contrast to I&E's Exception.

**3. *OCA's argument is unsupported and not responsive to the R.D.'s recommendation to accept a size adjustment.***

OCA opposed both the R.D.'s conclusion that a size adjustment is warranted and the R.D.'s adoption of the standard deviation method to account for the Company's size risk. OCA Exceptions at 15-18. As OCA fails to support either contention, its Exception should be dismissed.

Similar to I&E, OCA claims the ALJs erred in granting a size adjustment for the Company because the record shows that size risk exists for companies in general. OCA Exception at 17. OCA contests the Company's quantification of size risk but ignores arguments from the Company refuting OCA's witness. *Id.* at 16. OCA additionally argues that the R.D.'s reasoning "conflicts with solid ratemaking principles," but provides no citations for this proposition or explanation of which ratemaking principles are purportedly violated. *Id.* at 17. OCA further argues that R.D.'s finding of size risk is inconsistent with the Company's status as a natural monopoly. *Id.* This argument was addressed above in response to I&E's Exception and fails here for the same reasons.

In a final misguided effort to discredit size risk, OCA continues to assert that the Company's reliance on size premiums published in the *Duff and Phelps Valuation Handbook* does not support a size adjustment. OCA Exceptions at 16. As discussed in the Company's Main Brief and Exceptions, the Company used the *Duff and Phelps* size deciles to assess the difference in size risk (the size premium spread) between the Electric Proxy Group Companies and the Company. Citizens' Main Brief at 96-97. Based on the Company's market capitalization and the average Electric Proxy Group Company market capitalization, the Company falls within the tenth size decile and Electric Proxy Group Companies fall within the second size decile. *Id.* at 96.

OCA runs the same analysis, except that: (1) OCA inexplicitly uses 2017 *Duff and Phelps* data where the Company used the 2019 handbook; and (2) OCA uses Ordinary Least Squares (OLS) betas to assign size deciles instead of market capitalization. OCA Exceptions at 16. OCA thus argues that under its analysis, the Company remains under size decile 10, but the Electric Proxy Group moves to the first size decile instead of the second. *Id.* Because this first decile has a negative value, OCA concludes the Electric Proxy Group Companies have no size risk and extrapolates this observation to argue that adjusting for size risk for the Company is inappropriate. *Id.* As concluded in the Company's Main Brief, this argument defies logic as the size adjustment is intended to reflect the size premium spread, *i.e.* the *difference* between the Company's size decile and Electric Proxy Group size decile. *See* Citizens' Main Brief at 99. Even under OCA's analysis, the size premium spread supports the Company's proposed 100 basis point size adjustment. *See* OCA Exceptions at 16.

OCA also claims that the R.D.'s application of the standard deviation method to account for size risk violates the OCA's CAPM/Risk Premium limits. OCA Exceptions at 18. This argument relies on a completely unfounded and counterintuitive assertion that a size adjustment cannot exceed the range of reasonableness determined by a standard DCF analysis. Of course, this would subvert the very purpose of a size adjustment, which is to award an ROE higher than the result of the standard analysis because small utilities face greater risk than larger utilities.

Company Witness D'Ascendis addressed the principles underlying a size adjustment in testimony. Mr. D'Ascendis explained that "[c]onsistent with the financial principle of risk and return discussed above, increased *relative risk due to small size* must be considered in the allowed rate of return on common equity." Joint Statement No. 2 at 43 (emphasis added). Because the risk recognized through a size adjustment is the risk relative to a similarly situated larger utility, OCA's

proposition to apply a model developed to determine a reasonable ROE irrespective of size cannot serve as the ceiling for a size adjustment.

Even if the Commission were to accept OCA's premise (which it should not) that the size adjustment should fall within the range of reasonableness supported by the unadjusted ROE analysis, OCA's flawed CAPM/Risk Premium model should not be applied as the upper limit. As discussed in the Company's Main Brief, OCA's CAPM/Risk Premium model is an unfounded analysis that, among other deficiencies, fails to utilize a risk-free rate based on a forecast period. *See* Citizens' Main Brief at 87-88; *see* Joint Statement No. 2-R at 56-57.

Moreover, as emphasized by the Company throughout this proceeding, use of the median and average of OCA's CAPM/Risk Premium analysis as an upper limit would understate the appropriate return for any utility, much less a utility subject to size risk. OCA's CAPM/Risk Premium analysis results in median and average ROEs of 8.76% and 8.92%, respectively. OCA Exceptions at 18. As detailed in the Company's Main Brief, the Commission calculated a DSIC ROE for electric utilities of 9.55% as of November 14, 2019. *See* Citizens' Main Brief at 61. This is the proxy return that is used for the DSIC mechanism for any utility that did not fully litigate ROE in its rate case, so it is meant to reflect what the Commission would decide in a litigated case. *Id.* at 85 *citing* 66 Pa. C.S. § 1357(b)(2). This benchmark illustrates the illogical premise of OCA's assertion; a model producing ROE results below market expectations for general electric utilities cannot be held up as an upper limit for a size adjustment meant to recognize the higher risk faced by smaller utilities.

#### **4. Conclusion**

The Company's Exceptions addressed the deficiencies in the R.D.'s ROE determination and detailed the necessity of ensuring that an appropriate size adjustment be applied to the ROE that would otherwise be approved for a larger electric utility. Citizens' Exceptions at 22-24. The I&E



and OCA Exceptions seeking to reduce the ROE approved in the R.D. would deprive the Company of an opportunity to earn a reasonable rate of return and would frustrate the Company's efforts to continue furnishing reliable public utility service to customers. For the reasons set forth above, the Commission should deny I&E's Exception No. 4 and OCA's Exception No. 7.

**G. Reply Exception No. 7: I&E's Exception No. 5 and OCA's Exception No. 8 should be rejected in favor of the R.D.'s well-reasoned recommendation to approve a 25-basis point performance adjustment for the Company.**

I&E and OCA oppose the R.D.'s award of a 25-basis point performance adjustment. OCA argues only that the performance adjustment is unjustified; however, rather than addressing the specific circumstances of the Company's activities, OCA recounts testimony from witnesses opposed to the general concept of performance adjustments. OCA Exceptions at 19-20. I&E similarly opposes the R.D.'s award of a 25-basis point performance adjustment as arbitrary, and alternatively argues that a 5-basis performance adjustment is sufficient. I&E Exceptions at 10-11. The R.D. correctly weighed the numerous indicators of exemplary and innovative service and found merit in awarding a substantial performance adjustment. R.D. at 75-77. The OCA and I&E arguments to the contrary should be rejected.

OCA and I&E continue to mount policy arguments against a performance adjustment based on their witnesses' belief that utilities should not receive performance adjustments for meeting their obligations. I&E Exceptions at 10-11; OCA Exceptions at 19-20. These arguments were comprehensively addressed in the Company's Main Brief. *See* Citizens' Main Brief at 89-92. Therein, the Company clarified that its efforts to provide customer service and innovation above and beyond its regulatory obligations include, but are not limited to: (1) rolling out Smarthub for mobile account management; (2) equipping linemen with tablets; (3) responding to 97% of customer phone calls within 3 seconds; (4) out-performing all Commission reliability objectives; (5) launching a proactive audit project that increased pole attachment billings by 9.2% (thereby

offsetting distribution expenses otherwise recoverable by ratepayers); and (6) investing \$1.4 million in system replacements and improvements without use of a DSIC. *Id.* at 90-91. The R.D. appropriately concluded that these efforts warrant a substantial performance adjustment. R.D. at 77.

I&E alternatively suggests that the Commission reduce the awarded performance adjustment from 25-basis points to 5 basis points. *See* I&E Exceptions at 10-11. I&E alleges that Citizens' provided no basis for its requested 25-basis point performance adjustment. *Id.* at 10. The Company's requested size adjustment is commensurate with the 22-basis point size adjustment awarded by the Commission in *Pa. PUC et. al v. Aqua Pennsylvania Inc.*, Docket No. R-00072711 (Order entered July 31, 2008) at 50. Citizens' Reply Brief at 33. While the Commission awarded a smaller performance adjustment in its UGI Order, the Company submits that the record in this proceeding reflects a significantly greater degree of innovation, particularly with regards to the Company's efforts to adopt new technologies (Smarthub/linemen tablets) to improve customer service.

The Company has met its burden of providing substantial evidence to support the proposed 25-basis point performance adjustment. *See* R.D. at 77. The Commission should recognize the Company's efforts to provide its customers with exemplary and innovative service by denying the I&E and OCA Exceptions and adopting the 25-basis point performance adjustment recommended by the R.D.

**H. Reply Exception No. 8: I&E's Exception No. 6 should be denied as the R.D. correctly rejected I&E's recommendation that Citizens' be required to provide certain accounting reports.**

The ALJs recommended that the Commission deny I&E's request for Citizens' to be required to provide an update to its plant in service projections by updating Citizens' Exhibit\_(HSG-1), Schedule C3(R) no later than April 20, 2020. R.D. at 125. I&E contends, in its

Exceptions, that the ALJs should have directed the Company to provide the aforementioned updates. I&E Exceptions at 11-12. The Company previously stated, in its Main Brief, that it must already submit numerous filings to the Commission including Annual Reports, which entail detailed year-end plant, expense, and sales data, and the Company-provided quarterly updates following the initial rate filing in this proceeding. Citizens' Main Brief at 117. Additional reporting requirements would impose an unfair regulatory burden on small utilities such as Citizens'. *Id.* Lastly, in light of the fact that the Commission has not adopted regulations that comprehensively address requirements for public utilities utilizing the FPPTY, the Company requests that it not be singled out for complying with unique and additional reporting requirements that are not applicable to all EDCs. *Id.* The Company, therefore, respectfully requests that the Commission approve the ALJs' recommendation and deny I&E's Exception.

**I. Reply Exception No. 9: The Commission should deny OCA's Exception No. 1 and approve the Company's proposed rate base.**

Despite recent Orders from both the Commission and the Commonwealth Court affirming the end-of-test-year rate base methodology applied by the Company, OCA continues to propose the average-year rate base methodology for purposes of calculating the Company's rate base. OCA Exceptions at 2. OCA attempts to ignore the extensive litigation on this issue and argue that the prior decisions have no bearing on the Commission's actions in this docket. OCA Exceptions at 3. However, as OCA has failed to present new evidence or arguments that would merit revisiting the UGI Order, the Commission should uphold its prior ruling. Any other outcome would produce inequitable and discriminatory outcomes.

OCA rests its argument to a mistaken conclusion that the R.D. misunderstood the impact of the Commonwealth Court Order affirming the Commission's approval of the end-of-year methodology in its UGI Order. OCA alleges that the R.D. erred in deeming the Commonwealth

Court's decision to be binding on the parties. OCA Exceptions at 2. While the Company agrees with OCA that the Commission reserves discretion to overturn its own Orders, the Company avers that the R.D.'s use of "binding" was intended to refer to the Commission's obligation when reviewing a legal question addressed in a prior docket. While the Commission is not bound by the rule of *stare decisis*, it has a duty to "render consistent opinions and should either follow, distinguish, or overrule [its] precedent." *See Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of their Default Service Programs*, 2014 Pa. PUC LEXIS 552, \*85 (Pa. P.U.C. July 24, 2014); *Bell Atlantic -- Pennsylvania, Inc. v. Pa. PUC*, 672 A.2d 352, 354 (Pa. Cmwlth. 1995).

Here, OCA has failed to distinguish the facts at issue from the facts addressed in the UGI Order. As set forth in the Company's briefs, the arguments offered by OCA in opposition to the end-of-test-year rate base methodology duplicate the arguments offered and rejected in the Commission's UGI Order. *See* Citizens' Reply Brief at 4; *see also* Citizens' Main Brief at 18-22. As the facts remain unchanged, a decision to apply Act 11 to bar use of the end-of-test-year rate base method would generate a discriminatory outcome for the Company. To avoid this scenario, the Commission should deny OCA's Exception No. 1 and uphold the R.D.'s acceptance of the end-of-test-year methodology for developing the Company's rate base.

**J. Reply Exception No. 10: OCA's Exception No. 9 should be denied as the R.D. correctly determined that Citizens' Allocated Class Cost of Service Study is reasonable and consistent with cost causation precedent.**

In its Exceptions, OCA contends that the ALJs erred in adopting Citizens' Allocated Class Cost of Service Study ("ACCOSS") because the ACCOSS improperly classifies certain upstream secondary distribution plant as customer-related. OCA Exceptions at 20-25; *see* R.D. at 90-92. Contrary to OCA's contentions, the ALJs correctly determined that Citizens' ACCOSS is

reasonable, consistent with cost causation precedent and should be adopted by the Commission. *See* R.D. at 90-92.

In developing Citizens' ACCOSS, Company Witness Gorman (1) functionalized rate base and costs; (2) classified functionalized costs as demand-related, commodity-related, or customer-related; and (3) determined a class allocation of the functionalized, classified costs among the rate classes. R.D. at 86-87; Citizens' Main Brief at 102-103; Citizens' Statement No. 1 at 17-18. Neither I&E nor OSBA contest the methodology in Citizens' ACCOSS. R.D. at 87-88. OCA did not contest the ACCOSS generally, but only expressed a few concerns about the classification of certain secondary distribution facilities. R.D. at 90.

Citizens functionalized distribution facilities (*e.g.*, transformers, conductors, poles, towers, and underground conduit) as either primary or secondary facilities. Citizens' Statement No. 1 at 17. Citizens' Witness Gorman classified the primary facilities (that are designed to move power from the transmission system to secondary distribution facilities) as demand-related. *Id.* at 21. Witness Gorman classified secondary facilities as customer and/or demand-related and functionalized line transformers using a "minimum size analysis" or "minimum system method." R.D. at 87, 91; *see* Citizens' Statement No. 1 at 21. For remaining secondary distribution plant, Witness Gorman used a "zero-load analysis" to estimate the customer-related portions. R.D. at 91. For secondary distribution facilities designed to move power from the primary distribution system to customers' premises, Witness Gorman adhered to public utility accounting practices that recognizes the upstream secondary distribution plant contains customer costs and that such secondary plant facilities are partly driven by the number of customers. Citizens' Main Brief at 104, Reply Brief at 38; *see also* Citizens' Statement No. 1 at 20-24, Citizens' Statement No. 1-R at 14. The ALJs found that Citizens' reasonably used the minimum system method and zero-

load analysis to identify and calculate the customer portion of the upstream secondary distribution plant in accordance with Commission precedent. R.D. at 91; *see also* Citizens' Main Brief. at 104; Citizens' Reply Brief at 38.

In its Exceptions, OCA argues that the ALJs erred in relying on the UGI Order and *Pa. PUC et al. v. PPL Elec. Utilities*, Docket No. R-2012-2290597 (Order entered Dec. 28, 2012) ("PPL Order") because OCA presents purportedly Company-specific arguments in this proceeding. OCA Exceptions at 21-22. Essentially, OCA avers that its arguments in this proceeding are different because this proceeding involves a different company witness with a different ACCOSS. *See* OCA Exceptions at 21. Despite OCA's claim that unique flaws exist with regards to the Company's analysis, the criticisms levied in OCA's Exception are exactly the same arguments rejected by the Commission in prior proceedings.

In the UGI Order, Utilities, Inc. – Electric Division ("UGI"), like Citizens', separated costs into functional cost categories (*e.g.*, primary or secondary distribution) and then classified the costs as customer- or demand-related costs based on a minimum system method that identifies the portion of costs required to serve a customer with minimum or no load and allocates the remaining costs based on each rate class's maximum non-coincident peak demand. UGI Order at 155-156. OCA had argued that UGI's minimum system method was improper and instead recommended that UGI be required to classify 100% of its upstream primary and secondary distribution plant as demand-related. *See* UGI Order at 156.

In the UGI Order and the PPL Order, the Commission affirmed the use of the "minimum system" method as the accepted approach to classify and allocate distribution system costs consistent with longstanding PUC precedent. UGI Order at 162; PPL Order at 113 (*citing Pa. PUC v. PPL Electric Utilities Corp.*, Docket No. R-2010-2161694, at 46 (Order entered

Dec. 21, 2010)). In the UGI Order, the Commission found that the minimum system method and UGI's ACCOSS was consistent with the National Association of Regulatory Commissioners ("NARUC") Electric Utility Cost Allocation Manual ("NARUC Manual") and more accurately reflects cost-causation principles than OCA's preferred method of allocating secondary distribution plant on a 100% demand basis. UGI Order at 160. OCA had argued that UGI's minimum system method was improper and instead recommended that UGI be required to classify 100% of its upstream primary and secondary distribution plant as demand-related. *See* UGI Order at 156. However, the ALJs recognized the precedent in the UGI Order and the PPL Order and determined that Citizens' ACCOSS, which classifies primary and secondary distribution costs as part demand and part customer costs and allocates other costs based on the maximum non-coincident demand under the "minimum system" method, adheres to the generally accepted utility accounting practices in the NARUC Manual. R.D. at 91. The ALJs found that Citizens' ACCOSS correctly considers and adheres to fundamental class cost of service ratemaking principles, which the appellate court precedent considers the "polestar" of public utility ratemaking. *Id.*; *see Lloyd v. Pa. PUC*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006).

Similarly, in this proceeding, OCA argues that Citizens' use of the minimum system analysis is improper, and that Citizens' should be required to allocate 100% of line transformer costs as demand-related. OCA Exceptions at 21-23, 24 *quoting* OCA Statement No. 4 at 12. In the UGI rate case, OCA argued that that minimum system method is a "theoretical construct" that fails to represent the load-carrying capability of the system in day-to-day operations. *See* UGI Order at 158. Although alleging that the Company's approach presents unique flaws, OCA proceeds to reiterate the argument that the minimum system method does not account "for the load-carrying capability of the hypothetical minimum system." OCA Exceptions at 24. As a

result, the ALJs properly recognized that OCA continued to advance arguments that the Commission rejected in the UGI Order and the PPL Order. R.D. at 91.

Because OCA has failed to demonstrate why the Commission should now deviate from its precedent and the well-established and approved utility accounting practices for developing a cost of service study, Citizens' asks that the Commission deny OCA's Exception No. 9, adopt Citizens' ACCOSS, and find Citizens' use of the "minimum system" method and "zero-load analysis" to be reasonable.

**K. Reply Exception No. 11: OCA's Exception No. 11 should be denied because the Company's proposed revenue allocation adequately moves all customers towards cost-of-service.**

The OCA, in its Exceptions, requests that the Commission reject the ALJs' recommendation to approve I&E's proposed revenue allocation and instead approve OCA's proposed revenue allocation. As the Company previously stated in its Exceptions and Main Brief, the Company's proposed revenue allocation moves all classes closer to cost-of-service and avoids extreme rate impacts. Citizens' Main Brief at 105-107; Citizens' Exceptions at 24-25. Specifically, implementing a rate decrease for rate class GLP-3 is a reasonable and appropriate way to bring all classes closer to cost of service. Citizens' Main Brief at 107. Accordingly, Citizens' respectfully requests that the Commission approve the Company's proposed revenue allocation as it moves all classes closer to cost-of-service and avoids extreme rate impacts.

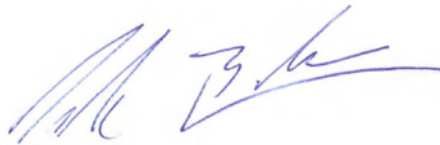


**III. CONCLUSION**

**WHEREFORE**, Citizens' Electric Company of Lewisburg, PA respectfully requests that the Pennsylvania Public Utility Commission grant these Reply Exceptions, approve the Company's recommendations therein and in its Exceptions, and otherwise adopt the Recommended Decision.

Respectfully submitted,

McNEES WALLACE & NURICK LLC



By

---

Pamela C. Polacek (PA I.D. No. 78276)  
Adeolu A. Bakare (PA I.D. No. 208541)  
Matthew L. Garber (PA I.D. No. 322855)  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 260-1744  
ppolacek@mcneeslaw.com  
abakare@mcneeslaw.com  
mgarber@mcneeslaw.com

Counsel to Citizens' Electric Company of  
Lewisburg, PA

Dated: March 23, 2020