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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: Wellsboro Electric Company; Docket No. R-2019-3008208

Dear Secretary Chiavetta:

Please find attached for filing with the Pennsylvania Public Utility Commission the Reply Exceptions of Wellsboro Electric Company ("Wellsboro") 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, Wellsboro 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
Certificate of Service

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).

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Counsel to Wellsboro Electric Company

Dated this 23rd day of March, 2020, at Harrisburg, Pennsylvania.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2019-3008208
	:	
Wellsboro Electric Company	:	

REPLY EXCEPTIONS OF WELLSBORO ELECTRIC COMPANY

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Dated: March 23, 2020

TABLE OF CONTENTS

I. INTRODUCTION

On July 1, 2019, Wellsboro Electric Company ("Wellsboro" or "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") Supplement No. 125 to Tariff Electric-Pa. PUC No. 8 ("Original Supplement No. 125"), proposing an annual increase in revenues of $1,419,610. In support of this filing, Wellsboro submitted a Statement of Reasons, the supporting information required by 52 Pa. Code § 53.52(a), (b), and (c), and various other information. Wellsboro later filed replacement base rate schedules and tariff sheets reflecting an increase in distribution revenues of $999,999 on July 31, 2019, which the Commission acknowledged by Secretarial Letter dated August 8, 2019.[1]

A procedural history for this proceeding was provided in Wellsboro's 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, Wellsboro 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, respectively, I&E and OCA also filed Exceptions to the R.D.[2]

Wellsboro 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

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[1] In Rebuttal Testimony, Wellsboro subsequently revised its proposed revenue increase to support additional annual revenue of approximately $1.1 million but preserved the requested increase to base rate revenues of approximately $999,999. Wellsboro Main Brief at 1.

[2] OSBA did not file Exceptions in this proceeding.

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

II. REPLY EXCEPTIONS

A. <u>Reply Exception No. 1</u>: 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 argues that the prior decisions have no bearing on the Commission's actions in this docket. However, as OCA has failed to present new evidence or arguments that would merit revisiting the Commission's decision in *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2017-2640058 (Order entered Oct. 25, 2018) ("UGI Order"), the Commission should uphold its prior ruling. Any other outcome would produce inequitable and discriminatory outcomes.

OCA's argument rests on 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 Exceptions at 2-3. OCA alleges that the R.D. erred by deeming the Commonwealth Court's decision to be binding on the parties. *Id.* 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* Wellsboro Reply Brief at 4; *see also* Wellsboro Main Brief at 18-23. 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.

B. <u>Reply Exception No. 2:</u> OCA's Exception No. 3 relies on stale data to support adjusting Miscellaneous Distribution Expense and should be denied.

The R.D. recommended an allowance of $204,925 for Miscellaneous Distribution Expense (Account No. 588) from the Company's claim of $219,007.[3] Despite annualized year-to-date data from September 30, 2019, tracking above projections ($225,474) and a Historic Test Year ("HTY") expense of $275,580, OCA argues for a total allowance of $130,584. OCA Reply Exceptions at 7-8.

OCA's Exception for this account is arbitrary, unreasonable, and should be rejected. OCA opts to use stale, nearly five-year-old data (2015-2017) and ignores both 2018 data and 2019 year-to-date data supporting a vastly higher allowance than OCA recommends. OCA Exceptions at 9. To support its argument in Exceptions, OCA reproduces OCA Witness Sherwood's chart

[3] The R.D. accepted I&E's proposed adjustment to reduce the Company's "other" expense for training, but allowed an additional $14,934 due to a short-term employee disability during 2019 that reduced actual 2019 expenses. R.D. at 31-32.

comparing "2015-2017 Average Expense" to "FPFTY Projected Expense." *Id.* The chart shows that the Fully-Projected Future Test Year ("FPFTY") projected expense is significantly higher than the average 2015-2017 expense. *Id*. Consequently, OCA arrives at an unreasonable recommendation amounting to *less than half* of the Company's actual HTY expense and scarcely half of the Company's annualized Future Test Year ("FTY") expense. *Id.*

OCA justifies ignoring 2018-2019 data in favor of 2015-2017 data by calling the Company's claims "speculative," despite testimony supporting recurring increased expenses in this category. OCA Exceptions at 8; *see* Wellsboro Main Brief at 45. OCA observes that "new employee training costs are unlikely to continue in future years unless the Company plans to hire additional employees." *Id.* at 9. This assertion is unfounded, rendering OCA's approach arbitrary, subjective, and unfair.

As explained in Wellsboro's Exceptions, the Company provided substantial evidence that there will continue to be retirements and employee turnover over the next few years, meaning these expenses will be recurring. Wellsboro Exceptions at 13. As Mr. Farnsworth stated on Rejoinder:

> Well, we got several new employees at work. We got several that are . . . going to be retired here . . . in the next five years. We have potential to lose almost four people within the organization and if we go out ten years we're potentially going to lose eight [of] our employees, which is essentially *50 percent of our workforce*. With that we've got to continue to stay current with our training.

Wellsboro Main Brief at 45 *citing* Tr. 178 (emphasis added). As explained in the Company's Exceptions, the industry is becoming more technology driven as customers demand more immediate access to information. Wellsboro Exceptions at 14; Tr. 178. This need requires continuous training for new and existing employees. In fact, Mr. Farnsworth testified that the training for existing employees is often necessary to acclimate them to newer technologies, which ironically the newer employees are likely more comfortable with. *Id.* (explaining that "we’ve got to continue to stay current with our training out with these folks and keep them up to speed with the new people coming on board and getting up to speed on applications or new things that are occurring out in the industry…"). So in addition to new employee training, Wellsboro will continue to incur expenses to improve the capabilities of its existing workforce with the accelerating use of new software technologies.

The actual 2019 expense data for Account No. 588 supports Mr. Farnsworth description on the increasing need for employee training. The 9-month total of $169,106, when annualized and increased by the 3% FPFTY adjustment, results in a projection of $232,239 for the FPFTY – $13,232 above the Company's claim. Wellsboro Statement No. 1 at 4.

The Company requests that the Commission deny OCA's unfounded adjustment and approve the claim as set forth in the Company's Exceptions.

C. <u>Reply Exception No. 3:</u> The R.D. correctly rejected adjustments proposed by I&E and OCA for Maintenance of Overhead Lines/Vegetation Management (I&E Exception No. 1 and OCA Exception No. 4).

The R.D. recommends that the Commission approve a total claim of $616,519.33 for Maintenance of Overhead Lines/Vegetation Management Expense (Account No. 593). R.D. at 25-28. I&E argues that there is insufficient evidence to support an expense claim greater than $580,364. I&E Exceptions at 5. OCA also opposes the ALJs' recommended allowance, based on part on its witness' erroneous characterization of the tree-trimming activity necessitating an additional $60,000 of FPFTY expense as a one-time cost incident. OCA Exceptions at 9-11. As a consequence, I&E and OCA both minimize this critical expense and its implications for reliability in Wellsboro's territory. Their exceptions should be denied.

First, I&E mischaracterizes Wellsboro Witness Howard Gorman's testimony by arguing it "only supports a claim of $580,364." I&E Exceptions at 5. This argument should be rejected as Mr. Gorman's Rebuttal Testimony provided year-to-date 2019 Operations &

Maintenance ("O&M") data in Rebuttal Testimony and proposed that the Commission accept a total O&M amount based annualizing this amount (plus a 3% FPFTY inflation adjustment). Wellsboro Statement No. 1-R at 4. However, the presentation of the annualized FTY individual expense data to support the Company's proposal for an across-the-board O&M adjustment did not invalidate the record support for a higher individual expense item. Wellsboro Main Brief at 30-32; *see also* Wellsboro Statement No. 1-R at 3. On the very next page of his Rebuttal Testimony, Mr. Gorman explained that an additional $60,000 is anticipated for the FPFTY and each year beyond for tree trimming. Wellsboro Statement No. 1-R at 5. Mr. Farnsworth provided further support for Mr. Gorman's assertions by explaining that a significant portion of 2019 expenditures in Account No. 593 would be incurred towards the end of the year. Wellsboro Statement 6-R at 7-8; Tr. 176.[4]

Second, the Company provided substantial evidence showing continually increasing annual expenses. Wellsboro Witness Farnsworth explained:

> Wellsboro's annual tree-trimming contractor costs have increased by over $100,000 due to contractor cost increases over the past *three years*, the Emerald Ash Borer removal, and enhanced tree growth due to wet growing seasons over the past two years. Vegetation management activities are particularly critical in a rural territory like Wellsboro's, which has many miles of off-road rights-of-way carrying poles and wires.

Main Brief at 41 (emphasis added). Further, Mr. Farnsworth explained that:

> The inspection and management program is necessary to efficiently identify and target vulnerable facilities for maintenance, including tree-trimming. This expense is not decreasing; in fact, it may grow beyond what we projected for 2020.

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[4] Mr. Farnsworth provided valid reasons why expenditures in 2019 were pushed toward late in the year. Wellsboro Statement 6-R at 7-8. Despite this testimony and the testimony of Mr. Gorman explaining that the pace of spending in accounts is not even throughout the year, Wellsboro Statement No. 1-R at 3, I&E arbitrarily argues that Mr. Farnsworth's estimated year-end expenditures "should not be summarily accepted without final proof" because the estimated expense would be far higher in December than the "average" monthly expenses. I&E Exceptions at 5.

Wellsboro Main Brief at 5. Additionally, Mr. Farnsworth also testified that the Company received bids from contractors for 2020 tree-trimming work on December 5, 2019, showing increased costs. Wellsboro Main Brief at 43 *citing* Tr. 186-87. Like I&E, OCA ignores this evidence, instead characterizing the Company's expenses in this category as "prone to substantial fluctuation." OCA Exceptions at 11.

Third, despite substantial evidence supporting these increased costs, I&E's argument relies on stale data from 2016-2018. In its Exceptions, I&E argues that "[e]ven if an additional $60,000 is added to Wellsboro's tree trimming budget for 2020, total expense would only be $578,492 for the FPFTY." I&E Exceptions at 5. To support claim, I&E uses a stale baseline. If I&E used annualized FTY data (as it does for other accounts), the amount would be even higher than recommended by the R.D. *Id.* However, I&E uses older data (average annual expense from 2016–2018 rather than annualized 9-month FTY expense) to unreasonably depress the Company's claim. *Id.*

I&E and OCA's proposed adjustments would substantially understate future tree-trimming costs. If these adjustments are adopted, the Company will not be able to recover the critical expenses necessary to meet the increased demands facing the Company regarding vegetation management. As explained by Mr. Farnsworth on Rejoinder, these activities are important to maintaining reliability of the Company's distribution system. Wellsboro Main Brief at 41; Tr. 176-177. Consequently, the Company respectfully requests that the Commission deny the I&E and OCA Exceptions.

D. <u>Reply Exception No. 4:</u> The Commission should reject I&E's Exception No. 2 for use of outdated data to adjust Operations Supervision & Maintenance Expense.

The R.D. recommended an allowance for the Company of $103,596 for Operations Supervision and Maintenance Expense (Account No. 580), consistent with the Company's initial claim for FTY expense. R.D. at 29. I&E asks the Commission to reduce the allowance for this account to $86,662. I&E Exceptions at 7. The R.D.'s recommendation is well-supported and should be approved by the Commission, subject only to the inflation adjustment addressed in the Company's Exceptions.[5]

I&E relies on mistaken factual and legal claims to support its proposed adjustment. First, I&E relies on a mistaken assertion that Wellsboro's "expert witness testimony only supports a claim of $86,662." I&E Exceptions at 6. On Rebuttal, Company Witness Gorman proposed an overall approach to O&M expenses of (1) annualizing the most updated available year-to-date data (as of September 30, 2019) and (2) adding an inflation adjustment to convert FTY expenses to FPFTY expenses. Wellsboro Main Brief at 32-35. However, this was an across-the-board proposal in response to the fact that small companies must often shift resources as needs arise. *Id.* at 31. As that across-the-board proposal was rejected, the Commission should rely on Mr. Gorman's explanation that, on an individual account basis, Account No. 580 is affected by projects occurring in other accounts. *See* I&E Statement No. 1, Exhibit No. 1, Schedule 2. Consequently, where the Company's largest operational expense (tree-trimming) has increased from prior years and is projected to increase in the FPFTY compared to the FTY expenses, it would be unreasonable to ignore the impact on Account No. 580. The ALJs recognized the reasonableness of the Company's claim in light of "escalating operational activities that the Company has undertaken and that are still ongoing, including accelerating tree-trimming cycles." R.D. at 29.

[5] The R.D. recommended removal of the Company's claimed inflation adjustment, which reduced the Company's FPFTY claim from $106,704 to $103,596. The Company previously addressed the R.D.'s rejection of the inflation adjustment in Exception No. 1.

Second, I&E's assertion that the Company relies on "late-brought claims" is inaccurate and unavailing. In support of this argument, I&E cites to 52 Pa. Code §§ 5.243(e)(2)-(3) and references a Commission decision agreeing with an ALJ statement that "new claims brought in on rebuttal are improper, unfair and a violation of due process." I&E Exceptions at 6. Ironically, I&E relies on a case preventing new claims on Rebuttal in seeking to bar the Company from relying on claims the Company made on Direct. The Company's reliance, for briefing purposes, on record evidence from another party's testimony does not transform its Direct Testimony position into a new claim.

Similarly, I&E's argument that Wellsboro has denied due process by "reverting to its original claim" does not survive scrutiny. I&E Exceptions at 6. Cases interpreting 52 Pa. Code § 5.243 do not bar the Company from presenting arguments in its brief supporting its claims made on Direct. *See, e.g., Pa. PUC et al. v. UGI Util., Inc.*, 1994 Pa. PUC LEXIS 138 ("The clear purpose of [52 Pa. Code s 5.243(e)] is to avoid trial by ambush and the prevention of surprise can only be achieved if the parties are confined to the scope of their direct case."). Rather, case law interpreting Section 5.243 prevents the introduction of new evidence outside the scope of Direct. *City of Lancaster (Sewer Fund) v. Pa. PUC*, 793 A.2d 978, 984 (Pa. Cmwlth. 2002) (determining that the City of Lancaster's claimed 4 percent increase in wages was improperly proffered direct evidence in the rebuttal phase of the rate case proceeding pursuant to 52 Pa. Code § 5.243(e)). I&E has not identified improper evidence presented by the Company. The Company addressed the claim in Direct and provided further information to rebut the adjustments proposed by I&E in Rebuttal. All of this testimony deals with the same Account. I&E had the opportunity to address the expenses in this account as part of its Surrebuttal Testimony. Similarly, I&E has cited to no legal authority indicating that the Company, in its briefs, cannot rely on the existing evidentiary record to support its claims made on Direct. *Id.*

As explained above, the ALJs appropriately relied on the record to determine a reasonable adjustment for Account No. 580. The Company respectfully requests that the Commission approve the R.D.'s recommendation for Account No. 580, subject to the inflation adjustment addressed in the Company's Exceptions.

E. Reply Exception No. 5: The R.D. correctly rejected I&E's adjustment for Safety and Communication Expense (responding to I&E Exception No. 3).

The ALJs recommend that the Commission approve a total claim of $8,915 for Safety and Communication Expense (Account Nos. 908-913). R.D. at 35-36; *see also* Wellsboro Statement No. 1, Exhibit__(HSG-1), Schedule C1-1 (W). The Company accepted two adjustments but argued that its FPFTY claim for the remaining components should be accepted without modification, resulting in a FPFTY expense of $12,694 for Account No. 908. The Company did not except to the R.D.'s recommended adjustment of $8,915.

I&E claims the ALJs "erred as a matter of law by weighing stale Company evidence" in the briefing stage. I&E also argues that Wellsboro has implicated due process principles by "revert[ing] to its original claim." I&E Exceptions at 8.

As explained in Reply Exception No. 4 above, I&E's assertion is based on a flawed interpretation of both 52 Pa. Code § 5.243(e) and Mr. Gorman's Rebuttal Testimony. First, I&E interprets the annualized FTY data in Mr. Gorman's Rebuttal Testimony as a limitation on the Company's individual claims, when Mr. Gorman's was using the information to support an across-the-board adjustment for O&M expenses – a proposal I&E rejected. I&E Main Brief at 14-15. Second, I&E asserts that 52 Pa. Code § 5.243(e) prevents the Company from offering evidence in violation of due process. I&E Exception at 8. I&E's accusation of a "late-brought claim" is not applicable where the Company relies on record evidence to further support its arguments on brief.

See id; see also Wellsboro Main Brief at 47 *citing* I&E Statement No. 1, Exhibit No. 1, Schedule 7; *see also* R.D. at 46.

For the reasons set forth above, the Commission should approve the R.D.'s well-founded recommendation, subject to the inflation adjustment addressed in the Company's Exceptions.

F. <u>Reply Exception No. 6</u>: The R.D. correctly rejected I&E's adjustment for Office Supplies and Expenses (responding to I&E Exception No. 4).

The ALJs recommend that the Commission approve a total claim of $125,467 for Office Supplies and Expenses (Account No. 921). As with Account Nos. 580, 593, and 908-913, discussed above, I&E argues that the ALJs erred as a matter of law by weighing "stale" evidence in the briefing stage. I&E argues that Wellsboro Witness Gorman only supported $64,367 of the Company's initial claim of $140,595.[6] Once again, I&E argues that the Commission should ignore record evidence supporting a higher expense claim based on I&E's misinterpretation of the Company's Rebuttal Testimony. I&E's arguments should be rejected.

As detailed in Reply Exception No. 4 above, I&E's assertion is based on a faulty interpretation of 52 Pa. Code § 5.243(e) and of Mr. Gorman's Rebuttal Testimony. I&E commits several errors. First, I&E interprets the annualized FTY data in Mr. Gorman's Rebuttal Testimony as a limitation on the Company's individual claims, when Mr. Gorman was using the information to support an across-the-board adjustment for O&M expenses – a proposal I&E rejected. I&E Main Brief at 14-15. Second, I&E asserts that 52 Pa. Code § 5.243(e) prevents the Company from offering evidence in violation of due process. I&E Exceptions at 9. I&E's accusation of a "late-brought claim" is not applicable where the Company relies on record evidence to further support

[6] As explained in the Company's Main Brief, Account No. 921 expenses include office supplies, as well as certain employee recognition expenses and benefits for employees. The Company did not except to the R.D.'s adjustment regarding employee recognition expenses. However, the Company strenuously opposes I&E's arguments on this Exception.

its arguments on brief. *See* Wellsboro Main Brief at 48 *citing* I&E Statement No. 1, Exhibit No. 1, Schedule 9 at 8, 10 (showing Account No. 921 expenses increase in the 4th quarter such that reliance on annualized 9-month FTY data would understate the Company's FPFTY expense).

For the reasons set forth above, the Commission should approve the R.D.'s reasonable recommendation, subject to the inflation adjustment addressed in the Company's Exceptions.

G. <u>Reply Exception No. 7</u>: The R.D. correctly rejected OCA's arbitrary approach to its recommendation for Maintenance of General Property (responding to OCA Exception No. 5).

The ALJs recommend an allowance for Maintenance of General Property Expense (Account No. 932) of $68,546, a reduction of the Company's claim of $90,199. R.D. at 40-41. The Company did not except to the ALJs' recommendation. However, despite the fact that the ALJs utilized annualized year-to-date 2019 data, OCA recommended a further adjustment based on a split approach to analyzing Account No. 932. OCA Exceptions at 11-12.

OCA's approach of using the average of the "other" subcategory and the FTY annualized data for all other subcategories is arbitrary and should be rejected. As pointed out by the ALJs, OCA's recommended FPFTY allowance of $46,957 would not cover the Company's actual $51,409 expense incurred for Account No. 932 as of September 30, 2019, let alone the annualized amount. R.D. at 41. OCA's concern regarding the Company's proposal to increase the "other" subcategory by 30% from the HTY is already addressed by the R.D.'s adoption of annualized FTY expense of $68,546 instead of the Company's proposed $90,199 expense claim. R.D. at 41. While the Company was not able to identify a singular project driving the higher FTY expense, the actual FTY expense indicates the Company correctly anticipated increased expenses. Considering that both the Company's budgeted expectations and the actual FTY expense show costs trending upwards, OCA's proposal to adjust the Company's expense claim to reflect historical expense from 2016-2018 is unreasonable.

For the reasons set forth above, the Commission should approve the R.D.'s reasonable recommendation, subject to the inflation adjustment addressed in the Company's Exceptions.

H. <u>Reply Exception No. 8</u>: I&E's Exception No. 5 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 Wellsboro's expense claim for rate case expense, to be normalized over three years. R.D. at 45. 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 proposed 48 and 45-month periods is in error and a deviation from the Commission's practice of setting a normalization period based on historic filing frequency. I&E Exceptions at 9-10; OCA Exceptions at 12-13. I&E also contends that the Company provides no support for the appropriateness of a 36-month normalization period. I&E Exceptions at 11.

The Company presented more than adequate evidence to support the requested 36-month normalization period for rate case expense. Wellsboro Main Brief at 51. Company witness Gorman explained that the Company's continued expenses related to reliability enhancing projects such as capital replacements, combined with limited prospects for load growth, lead to a reasonable expectation of a 36-month period between rate cases. *Id.* Company Witness Farnsworth also clarified that the Company will suffer revenue loss due to implementation of Combined Heat and Power ("CHP") and solar projects at a heightened pace. *Id.* at 51-52. The Company will need to file a rate case to begin earning a return on 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, while OCA counts the 2007, 2010, 2016, and 2019 rate filings. I&E Exceptions at 9-10; OCA Exceptions at 13-14; *see also* Wellsboro Main Brief at 51. 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. Wellsboro Main Brief at 51. Thus, historic filing 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. Wellsboro Main Brief at 50; *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 that the decision reasonably reflects future conditions when new rates take effect. The Company, therefore, urges the Commission to accept the ALJs' recommendation and approve Wellsboro's claim for rate case expense to be normalized over a 36-month period.

I. <u>Reply Exception No. 9</u>: The Commission should deny I&E's Exception No. 6 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 80-81. The R.D. determined that the standard deviation method was necessary to account for the Company's size risk. R.D. at 80-81. 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 11. 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. Wellsboro Exceptions at 21. 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 calculation of the Distribution System Improvement Charge ("DSIC") ROE, or the UGI Order. Wellsboro Main Brief at 71-72.

2. I&E's Exception No. 6 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 11-12. 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 74.

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 11-12. 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. Wellsboro Main Brief at 88-90 *citing* Joint Statement No. 2 at 42-43; *see* R.D. at 74-76. 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. Wellsboro Main Brief at 91-94. 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 12. However, I&E ignores the basic fact that all of 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* I&E Exceptions at 12. Accordingly, these factors do not account for relative differences between large and small utility companies such as economies of scale and load diversity. *See* Wellsboro Main Brief at 88-90. The smaller and less diverse customer base exposes smaller utilities like Wellsboro to higher risks of substantial impacts from losing a single large customer or having a significant revenue loss from increased energy efficiency, solar net metering and distributed generation.

Rather than rely solely on published literature, Company Witness D'Ascendis also conducted an unrebutted study demonstrating correlation between utility size and risk. Wellsboro Main Brief at 93-94. 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 74. 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. Wellsboro Main Brief at 93-94. 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. As OCA fails to support either contention, its Exception should be dismissed. OCA Exceptions at 16-17.

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. OCA Exceptions at 16-17. 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. OCA Exceptions at 17. OCA further argues that the R.D.'s finding of size risk is inconsistent with the Company's status as a natural monopoly. OCA Exceptions at 17. 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 its 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. Wellsboro Main Brief at 90-91. 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. Wellsboro Main Brief at 90-91.

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. OCA Exceptions at 16. 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. OCA Exceptions at 16. As concluded in the Company's Main Brief, this argument defies logic as the size adjustment is intended to reflect the size premium spread or the *difference* between the Company's size decile and Electric Proxy Group size decile. *See* Wellsboro Main Brief at 93-94. Even under OCA's analysis, the size premium spread supports the Company's proposed 100 basis point size adjustment. 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 that resulting from 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* Wellsboro Main Brief at 82; *see* Joint Statement No. 2-R at 56-57.

Moreover, as additionally 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* Wellsboro Main Brief at 56. 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.

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 should be applied to the ROE that would otherwise be approved for a larger electric utility. 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 frustrate its 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. 6 and OCA's Exception No. 7.

J. <u>Reply Exception No. 10</u>: I&E's Exception No. 7 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, but 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 13-14. 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 79-80. 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 13-14; OCA Exceptions at 19-20. These arguments were comprehensively addressed in the Company's Main Brief. Wellsboro Main Brief at 83-87. 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 use to customers; (2) equipping field personnel with tablets to use for maps and inspections; (3) excellent reliability metrics; (4) completing an Asset Verification Project, which improves outage reporting capabilities (and used by approximately one-fifth of Wellsboro's customers); and

(5) continued capital investment of approximately $1.25 million annually since the last rate case without use of a DSIC. *Id.* at 84. The R.D. appropriately concluded that these efforts warrant a substantial performance adjustment. R.D. at 79-80.

I&E alternatively suggests that the Commission reduce the awarded performance adjustment from 25 basis points to 5 basis points. I&E Exceptions at 14. I&E alleges that Wellsboro provided no basis for its requested 25-basis point performance adjustment. *Id*. 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. Wellsboro Reply Brief at 35. 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/tablets for field personnel/Asset Verification Project) to improve customer service.

The Company has met its burden of providing substantial evidence to support the proposed 25-basis point performance adjustment. 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 R.D.

K. Reply Exception No. 11: OCA's Exception No. 9 should be denied as the R.D. correctly determined that Wellsboro's Allocated Class Cost of Service Study is reasonable and consistent with cost causation precedent.

On Exceptions, OCA contends that the ALJs erred in adopting Wellsboro's 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 91-92. Contrary to OCA's contentions, the ALJs correctly determined that Wellsboro's ACCOSS is reasonable, consistent with cost causation precedent, and should be adopted by the Commission. *See* R.D. at 91-92.

In developing Wellsboro's ACCOSS, 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 88-89; Wellsboro's Main Brief at 97-98; Wellsboro Statement No. 1 at 21. Neither I&E nor OSBA contest the methodology in Wellsboro's ACCOSS. R.D. at 89-90. OCA did not contest the ACCOSS generally, but only expressed a few concerns about the classification of certain secondary distribution facilities. R.D. at 90-91.

Wellsboro functionalized distribution facilities (*e.g.*, transformers, conductors, poles, towers, and underground conduit) as either primary or secondary facilities. Wellsboro's Statement No. 1 at 21. Wellsboro Witness Gorman classified the primary facilities (that are designed to move power from the transmission system to secondary distribution facilities) as demand-related and classified secondary facilities as customer and/or demand-related. *Id.* Witness Gorman functionalized line transformers using a "minimum size analysis" or "minimum system method." R.D. at 89; *see* Wellsboro Statement No. 1 at 25. 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 recognize that upstream secondary distribution plant contains customer costs and that such secondary plant facilities are partly driven by the number of customers. Wellsboro Main Brief at 98-99, Wellsboro Reply Brief at 39-41; *see also* Wellsboro Statement No. 1 at 22, 25; Wellsboro Statement No. 1-R at 13-14. The ALJs found that Wellsboro 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* Wellsboro Main Brief at 99-100, Wellsboro Reply Brief at 40-41.

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 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, UGI Utilities, Inc. – Electric Division ("UGI") like Wellsboro 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. However, the ALJs recognized the precedent in the UGI Order and PPL Order, and determined that Wellsboro's 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 92. The ALJs found that Wellsboro's 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. R.D. at 91; *see Lloyd v. Pa. PUC*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006).

Similarly, in this proceeding, OCA argues that Wellsboro's use of the minimum system analysis is improper and that Wellsboro should be required to allocate 100% of line transformer costs as demand-related. OCA Exceptions at 21-23, 24-25 *quoting* OCA Statement No. 4 at 11. 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 92.

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, Wellsboro asks that the Commission deny OCA's Exception No. 9, adopt

Wellsboro's ACCOSS, and find Wellsboro's use of the "minimum system" method and "zero-load analysis" to be reasonable.

L. <u>Reply Exception No. 12</u>: OCA's Exception No. 10 should be denied because the Company's proposed revenue allocation adequately move 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. Wellsboro Main Brief at 101-102; Wellsboro Exceptions at 22-23. Specifically, implementing a rate decrease for rate class POL is a reasonable and appropriate way to bring all classes closer to cost of service. Wellsboro Main Brief at 101. Accordingly, Wellsboro 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.

M. <u>Reply Exception No. 13</u>: I&E's Exception No. 8 should be denied as the R.D. correctly rejected I&E's recommendation that Wellsboro be required to provide certain accounting reports.

The ALJs recommended that the Commission deny I&E's request for Wellsboro to be required to provide an update to its plant in service projections by updating Wellsboro Exhibit_(HSG-1), Schedule C3(W) no later than April 20, 2020. R.D. at 130. I&E contends, in its Exceptions, that the ALJs should have directed the Company to provide the aforementioned updates. I&E Exception at 15. 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. Wellsboro Main Brief at 112. Additional reporting requirements would impose an unfair regulatory burden on small utilities such as

Wellsboro. *Id*. at 113. Lastly, in light of the fact that the Commission has not adopted regulations that comprehensively address requirements for public utilities utilizing the FPFTY, the Company requests that it not be singled out for compliance with unique and additional reporting requirements that are not applicable to all Electric Distribution Companies ("EDCs"). *Id*. The Company, therefore, requests that the Commission approve the ALJs' recommendation and deny I&E's request for additional reporting requirements.

III. CONCLUSION

WHEREFORE, Wellsboro Electric Company 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 ______________________________

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