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November 10, 2020

VIA eFILING

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

Re: Pennsylvania Public Utility Commission v.
Pennsylvania-American Water Company
Docket Nos. R-2020-3019369 and R-2020-3019371

Dear Secretary Chiavetta:

Enclosed for filing is the **Main Brief of Respondent Pennsylvania-American Water Company** ("PAWC") (the "Brief") in the above-referenced matters. As evidenced by the enclosed Certificate of Service, copies of the Brief have been served on Administrative Law Judge Conrad A. Johnson and all parties of record.

In addition, we are enclosing two stipulations: (1) A stipulation between PAWC and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania; and (2) a stipulation between PAWC and the Commission on Economy Opportunity.

If you have any questions, please contact me directly at (215) 963-5384. Thank you.

Sincerely,

Kenneth M. Kulak

Enclosures

c: Per Certificate of Service (w/encls.)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	**Docket No. R-2020-3019369**
	:	**Docket No. R-2020-3019371**
v.	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served copies of: **(1) Main Brief of Respondent Pennsylvania-American Water Company ("PAWC"); (2) Stipulation between PAWC and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania; and (3) Stipulation between PAWC and the Commission on Economy Opportunity** in the above-referenced proceedings on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code § 1.54:

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Dated: November 10, 2020

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION **v.** **PENNSYLVANIA-AMERICAN WATER COMPANY**	**Docket Nos. R-2020-3019369** **R-2020-3019371**

MAIN BRIEF OF RESPONDENT
PENNSYLVANIA-AMERICAN WATER COMPANY

Before Administrative Law Judge
Conrad A. Johnson

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Dated: November 10, 2020

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I. INTRODUCTION AND OVERVIEW

A. Description of Company

Pennsylvania-American Water Company ("PAWC" or the "Company") is a "public utility" as defined in 66 Pa.C.S. § 102.[1] The Company furnishes water and wastewater services to approximately 790,000 customers in a service territory covering portions of 36 counties across the Commonwealth.[2] PAWC is a subsidiary of American Water Works Company, Inc. ("American Water"). Another subsidiary of American Water, the American Water Works Service Company, Inc. (the "Service Company"), provides certain customer service, corporate, and administrative services to American Water's water and wastewater utility subsidiaries.[3]

B. Procedural History

On April 29, 2020, the Company initiated this rate case by filing Supplement No. 19 to Tariff Water – Pa. P.U.C. No. 5 and Supplement No. 19 to Tariff Wastewater – Pa. P.U.C. No. 16 requesting Pennsylvania Public Utility Commission ("Commission" or "PUC") approval of an increase in its total annual operating revenues to become effective June 28, 2020. The requested increase equaled $138.6 million over the two years of PAWC's proposed multi-year rate plan ("MYRP") consisting of calendar years 2021 ("RY1") and 2022 ("RY2").[4]

On May 21, 2020, the PUC instituted an investigation of PAWC's existing and proposed rates and the Company's proposed tariffs were suspended by operation of law until January 28, 2021. On August 20, 2020, the PUC granted OCA's request to extend the suspension period by

[1] Hereafter all references to a "Section" are to the Pennsylvania Public Utility Code ("Code"), 66 Pa.C.S. §§ 101 *et seq*., unless indicated otherwise.
[2] PAWC St. 2, pp. 3-4.
[3] PAWC St. 6, pp. 20-24.
[4] *See* PAWC St. 1, pp. 6-7, 16-18.

45 days to March 15, 2020 but allowed the Company to recoup revenues lost during that interval under new rates approved by the Commission.

Following discovery, testimony and extensive negotiations, PAWC, the Bureau of Investigation and Enforcement ("I&E"), and the Pennsylvania-American Large Users Group ("PAWLUG") (collectively, the "Joint Petitioners") entered into a Joint Petition for Non-Unanimous Settlement of Rate Investigation ("Joint Petition"), which was filed on October 30, 2020. AK Steel Corporation ("AK Steel") later joined and supported the Joint Petition. The Joint Petition has a detailed procedural history, which is incorporated herein by reference. If the settlement embodied in the Joint Petition ("Settlement") is approved without modification, it will resolve all issues in this rate case among the Company, I&E, PAWLUG and AK Steel.[5]

C. Overview of PAWC's Filing

In its initial filing, the Company sought approval to implement alternative ratemaking mechanisms consisting of its proposed (1) MYRP; (2) Regionalization and Consolidation Surcharge ("RCS"); and (3) tracker and deferral mechanism for pension and other post-employment benefit ("OPEB") expense ("Pension/OPEB Tracker").[6] PAWC's MYRP reflected a total-Company revenue increase of approximately $92.4 million, or 12.9%, in RY1 and approximately $46.2 million, or 5.8% in RY2.[7] Additionally, PAWC proposed to rely upon Section 1311(c) to mitigate the increases on wastewater customers by recovering a portion of the Company's wastewater revenue requirement from its total water and wastewater customer base.[8]

[5] The Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Coalition for Affordable Utility Services in Pennsylvania ("CAUSE-PA"), and the Commission on Economic Opportunity ("CEO"), which are parties to the proceeding, are not joining the Settlement. PAWC has entered into stipulations with CAUSE-PA (regarding language access and protection for victims of domestic violence, the "CAUSE-PA Stip.") (regarding tenants, the "CAUSE-PA Stip. (DSLPA)" and CEO (regarding response to the COVID-19 emergency and low-income programs, the "CEO Stip."). *See* Sections XIV and XV, *infra*.
[6] PAWC St. 1, pp. 16-30.
[7] *Id.*, p. 7.
[8] PAWC St. 1, pp. 30-35.

The MYRP increases PAWC initially requested were designed to provide it an opportunity to earn 7.94% and 7.88% overall rates of return on a rate base of $3.975 billion (RY1) and $4.287 billion (RY2).[9] PAWC last increased its base rates effective January 1, 2018. Absent rate relief, PAWC's water and wastewater operations are projected to produce an overall return on invested capital of 6.31% and 5.62%, and a return on common equity of only 7.85% and 6.70%, as of December 31, 2021 and 2022, respectively.[10]

D. Overview of the Settlement

The Settlement provides a total-Company increase in operating revenues of $70.5 million (based on pro forma present rate revenues) to become effective as of January 28, 2021, subject to significant mitigation measures. Specifically, the increase of $70.5 million will be phased-in over two years and offset by annualized credits of $10.5 million in 2021 and 2022, as shown below:

January 28, 2021 through December 31, 2021 ("Step 1"):*		**January 1, 2022 through January 27, 2023 ("Step 2")**:**		**January 28, 2023 and forward**:	
Step 1 Base Rate Increase:	$ 50.5 M	Step 1 Base Rate Increase:	$ 50.5 M	Total Base Rate Increase:	$70.5 M
Step 1 Credit:	$(10.5) M	Step 2 Base Rate Increase:	$ 20.0 M	Credit:	$ (0)
Step 1 Net Increase:	$ 40.0 M	Step 2 Credit:	$(10.5) M	Net Increase:	$70.5 M
		Step 2 Net Increase:	$ 60.0 M		

* The figures for Step 1 are annualized (i.e., reflect the base rate revenue increase, credit and net increase for twelve months ending December 31, 2021. However, because the end of the suspension period and effective date for rates established in this case is January 28, 2021, the base rate revenue increase and credit and, therefore, the net increase PAWC will realize in 2021 (Step 1), will be only approximately 92% [(365-28)/365] of the annualized amounts.

** The base rate increases, credit and net increase are annualized (i.e., stated on the basis of a twelve-month period).

Additionally, if the Joint Petition is approved, PAWC agrees to withdraw its proposed RY2 increase and its proposed RCS and Pension/OPEB Tracker.[11]

The Settlement includes enhancements to furnish COVID-19 customer relief measures[12] and to augment PAWC's robust low-income assistance programs.[13] The Joint Petitioners were

[9] *See* PAWC Schs. RPN-1 and RPN-2.
[10] PAWC St. 1, pp. 8-9.
[11] *See* Joint Petition ¶ 33.
[12] *Id.*, ¶¶ 34-39.
[13] *Id.*, ¶¶ 40-44 and 69.

also able to agree on the customer class allocation of the revenue increase under the rates for water and wastewater service shown in the tariffs provided as Appendices A and B (the "Settlement Rates") and the proof of revenues set forth in Appendix C to the Joint Petition.[14]

E. Burden of Proof

While Section 315(a) provides that a utility has the burden to prove that proposed rates are just and reasonable, it "cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing."[15] A party proposing an adjustment to a ratemaking claim bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment,[16] and Section 332(a) establishes a burden of proof separate from that in Section 315 for those entities that propose a rule or order. Rejecting evidence contrary to a public utility's position is not an impermissible shifting of the evidentiary burden.[17]

II. SUMMARY OF ARGUMENT

The Company's MYRP proposed base rate increases of $92.4 million and $46.2 million in each of RYs 1 and 2. Under the terms of the Settlement, if approved, PAWC would: (1) increase its base rates by $70.5 million, phased-in over two years with an annualized credits in each of those years of $10.5 million; and (2) withdraw its proposed RY2 increase.

PAWC submitted supporting data and direct and rebuttal testimony to substantiate its proposed RY1 and RY2 increases. However, the only issue presented at this stage is whether the record evidence supports the increase provided in the Settlement of approximately 50% of

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[14] *Id.*, ¶¶ 70-71. The water and wastewater rate design incorporated into the Settlement Rates is summarized in Section XII.C., *infra*.
[15] *Pa. P.U.C. v. UGI Utilities, Inc. – Electric Division*, R-2017-2640058 (Order entered Oct. 4, 2018) ("*UGI Electric 2018*"), p. 7.
[16] *NRG Energy, Inc. v. Pa. P.U.C.*, 233 A.2d 936 (Pa. Cmwlth. 2020), p. 23.
[17] *United States Steel Corp. v. Pa. P.U.C.*, 456 A.2d 686 (Pa. Cmwlth. 1983).

PAWC's original request, subject to the aforementioned phase-in and credits. As set forth in the Joint Petition and Statements in Support, the settling parties agree the Settlement rates are just and reasonable and fully supported by the evidence in this case. PAWC's revenue requirement for the fully projected future test year ("FPFTY") ending December 31, 2021 fully supports the base rate revenue the Settlement rates will produce.

In Sections V-IX, the Company addresses all of the adjustments that the OCA has proposed to its revenue requirement. The OCA's proposed adjustments should not be adopted because they are unsupported by the record evidence, are contrary to applicable law and depart from positions that were approved in prior base rate cases for the Company and other utilities, which is evident from the principal adjustments advocated by the OCA's witnesses:

- **Average Versus Year-End Rate Base And Annual Depreciation**. OCA witness Smith advocated the use of an annual "average" for rate base and annual depreciation. PUC's orders implementing Act 11 of 2012 ("Act 11"), which amended Section 315(e) to authorize FPFTYs, clearly contemplated that year-end rate base and annual depreciation would be used when a FPFTY is employed. The PUC implemented its guidance in *UGI Electric 2018* by rejecting the same position advanced by OCA witness Smith in this case, and the Commonwealth Court affirmed that decision.[18]

- **Performance Based Compensation**. Mr. Smith proposed adjustments to disallow 50% of the compensation earned by employees of PAWC and the Service Company under the American Water Annual Performance Plan ("APP"). He also proposed disallowing 100% of the compensation earned by PAWC and Service Company employees under the American Water Long-Term Performance Plan ("LTPP"). Mr. Smith claimed that the proposed disallowances reflect the portion of employee performance based compensation that allegedly benefits "shareholders." Arguments and adjustments like those advanced by Mr. Smith were rejected by the Commission in a fully-litigated base rate case for PPL Electric Utilities ("PPL") in 2012.[19] The Commission, affirming its PPL decision, rejected proposed disallowances like Mr. Smith's again in *UGI Electric 2018* (pp. 73-74). PAWC also presented a detailed third-party compensation analysis demonstrating that its total employee

[18] *McCloskey v. Pa. P.U.C.*, 225 A.3d 192, 207-208 (Pa. Cmwlth. 2020) ("*McCloskey/UGI*").
[19] *Pa. P.U.C. v. PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597 (Opinion and Order entered Dec. 28, 2012), p. 26 ("*PPL 2012*"); *see also* PAWC St. 6-R, pp. 13-14.

compensation, including performance based compensation, is reasonable[20] – the same evidence the PUC found to be determinative in *PPL 2012* and *UGI Electric 2018*.

- **Capitalization Rate**. Mr. Smith proposed to reduce the Company's operating and maintenance expenses by claiming that a larger proportion of those expenses should be capitalized rather than charged to expense. He proposed using a single data point in lieu of the three-year average PAWC employed to derive its capitalization rate. Mr. Smith's proposal would produce a higher capitalization rate and a correspondingly lower level charged to expense. However, in prior rate cases PAWC consistently used a three-year average to smooth year-to-year variations, and that approach was not opposed.[21] The OCA disregards the accepted historical practice and relies on a single data point only because it produces the lowest – not the most reasonable – expense level.

- **Accelerated Amortization of Excess Accumulated Deferred Income Taxes ("Excess ADIT" or "EADIT")**. EADIT was created by the reduction in the federal corporate tax rate from 35% to 21% under the Tax Cuts and Jobs Act ("TCJA").[22] As PAWC witness John R. Wilde explained,[23] certain components of EADIT are labeled "protected" under applicable tax laws and, therefore, can be amortized as a reduction to a tax expense for ratemaking purposes only over a prescribed period that approximates the life of the plant to which the EADIT relates. Other components of EADIT are "unprotected" – the tax laws do not mandate the amortization period for ratemaking purposes. The Company proposed amortizing plant-related unprotected EADIT over a period that corresponds to the life of the underlying plant, and proposed amortizing non-plant related EADIT over twenty years.[24] OCA witness Smith, however, proposed a steeply accelerated amortization period of only three years for all unprotected EADIT. The vast majority of unprotected EADIT ($140 million)[25] is related to "repair" deductions. OCA witness Smith's proposal to use a three-year amortization of these items is unprecedented, is contrary to the position the OCA itself supported in Duquesne Light Company's 2018 base rate case[26] and, most importantly, represents OCA's attempt to renege on its agreement – memorialized in Commission-approved settlements in prior PAWC base rate cases – that repair deductions should be treated for ratemaking purposes exactly the same way they would if the tax laws made them "protected."[27] OCA's proposal to accelerate the amortization of unprotected EADIT is contrary to prior PUC-approved practices that, until now, OCA witness Smith had accepted and supported as beneficial to customers.

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[20] PAWC St. 6-R, pp. 9-10.
[21] *Id.*, p. 6.
[22] PAWC St. 10, p. 7; PAWC St. 10-R, pp. 2-3.
[23] *Id.*, pp. 8-9, 12-19.
[24] ***See*** PAWC St. 10-R, p. 12.
[25] PAWC Exhibit JRW-2R, p. 1 ("Repairs").
[26] *Pa. P.U.C. v. Duquesne Light Co.*, Docket No. R-2018-3000124 (Opinion and Order entered Dec. 20, 2018). *See* PAWC St. 10, pp. 17-18.
[27] PAWC St. 10-R, pp. 17-21.

- **Rate Of Return And Capitalization Ratio**. The OCA's unreasonable position that PAWC's rates should be *reduced* by approximately $37 million for RY1 is, in large part, the result of OCA witness Rothschild's recommendation that the Commission adopt cost rates for common equity of 8.00% (water) and 8.05% (wastewater). Equity cost rates that low are far outside the range of reasonableness for water and wastewater utilities, as evidenced by, among other benchmarks, the PUC's Bureau of Technical Utility Services' calculation of the equity return rate water utilities may employ for Distribution System Improvement Charge ("DSIC") purposes, which is 9.90%.[28] Mr. Rothschild understates PAWC's cost of capital even further by applying his inadequate equity cost rate to a "hypothetical" capital structure for PAWC's water operations, an approach the Commission has consistently *rejected*.[29]

As explained in the Joint Petition and Section XII below, the Settlement Rates fairly and reasonably allocate the increase in water and wastewater revenues among PAWC's customer rate classes. Under the Settlement Rates, only $29.3 million (Phase-In Step 1) and $21.5 million (Phase-In Step 2) of wastewater revenue requirement would be allocated to its water operation's cost of service, which is less that the allocation of $32.9 million and $35.2 million originally proposed under PAWC's MYRP.[30] PAWC also agreed to propose potential recovery and rate methodology options for storm water costs for its Scranton, McKeesport and Kane combined sewer system ("CSS") operations in its next rate case. Accordingly, the Settlement appropriately addresses the concerns raised by OCA and OSBA about how and from whom the cost of furnishing wastewater service should be recovered.

III. OVERALL POSITION ON RATE INCREASE

OCA witness Scott Rubin has recommended that the PUC deny any increase during the COVID-19 emergency.[31] To support his recommendation, Mr. Rubin offered the theory that the

[28] *Report on the Quarterly Earnings of Jurisdictional Utilities*, Docket No. M-2020-3021797 (Oct. 29, 2020), p. 27 ("Quarterly Earnings Report").
[29] *See PPL 2012*, p. 68, and cases cited therein, where the Commission held that PPL's actual capital structure, while higher than the barometer-group average, was not "atypical" and was within a "range of reasonableness." Mr. Rothschild could not present any evidence that PAWC's capital structure is "atypical" or outside the "range of reasonableness."
[30] *See* Joint Petition ¶ 71 e; Summary of Settlement Proof of Revenues Revised appended hereto as Appendix B.
[31] OCA witness Smith proposed rate *reductions* based on his proposed adjustments and a completely inadequate equity return rate proposed by OCA witness Rothschild. In apparent recognition of the lack of merit in that analysis,

Commission can set utility rates based on general economic conditions in a "null" zone outside of the traditional ratemaking zone of reasonableness.[32] In Mr. Rubin's view, this determination can be made based on conjecture that an unspecified number of customers might not be able to afford any increase and without considering any test year data or other information that commissions, as required by applicable law, have historically considered in setting rates.[33] CAUSE-PA, OSBA, and CEO also opposed any increase in rates based on COVID-19 concerns and general economic data from earlier this year.[34]

In response to the testimony of Mr. Rubin and parties aligned with the OCA, James W. Cawley, a former Commissioner and Chairman of the PUC, explained that focusing on a particular period of COVID-19 economic distress to try to justify denying a rate increase that objective financial data support was contrary to long-standing principles of utility rate regulation. In particular, Mr. Cawley explained that the fundamental principle of ratemaking – that rates should be set so that a utility has a reasonable opportunity to recover prudently incurred costs of providing essential utility service and earn a fair return on its investment in used and useful property – is "short-circuited" by Mr. Rubin's one-sided, customer-centric approach, which fails achieve the required *balancing* of the interests of utility investors and customers.[35] Such an approach to ratemaking would deprive utilities (including the Company) of the timely return on its investments to which is entitled under law and would raise serious constitutional issues of confiscatory ratemaking. It would also harm customers by undermining the financial stability of utilities and their ability to provide safe and reliable service, while also depriving customers and

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with the attendant result that PAWC would demonstrate the need for substantial rate relief (as the Settlement in this case fully supports), the OCA, through Mr. Rubin, asserts its primary position that, regardless of what a sound revenue requirement shows, the Company should be denied any increase at this time.

[32] OCA St. 1, p. 10.

[33] OCA St. 1, pp. 10, 22, 29; PAWC St. 14-R, pp. 8-9.

[34] *See* CAUSE-PA St. 1, pp. 7-9; OSBA St. 1, pp. 4-6; CEO St. 1, pp. 4-5.

[35] PAWC St. 14-R, pp. 4-5, 17.

the communities in which they live and work the benefits of planned system improvements and the attendant economic stimulus of capital investment and preservation or enhancement of employment opportunities.[36]

With respect to such investments, the Company presented substantial unrebutted evidence that capital programs to be funded by the revenues the proposed rates are designed to produce would bring significant new economic activity and job opportunities to Pennsylvania that are badly needed to recover from the economic dislocation created by the COVID-19 emergency. Based on a well-established and widely-used economic model, PAWC's capital expenditures can be expected to generate economic activity within its service territory totaling approximately $540 million in 2020 and $460 million in each of 2021 and 2022. That increase in economic activity would create over $286 million, in 2020, and $245 million, in each of years 2021 and 2022, in incremental gross regional product in its service territory, including between $17 and 20 million in additional state and municipal tax revenue. On an annual basis, the economic activity flowing from the Company's capital expenditures will support 4,400 jobs in 2020 and over 3,700 jobs in each of 2021 and 2022.[37]

As Mr. Cawley explained, traditional ratemaking principles must be applied even in times of economic distress, and can be joined with programs to assist customers in financial need.[38] In this proceeding, the Company and the other Joint Petitioners have reached a comprehensive settlement reflecting a substantial reduction in the Company's initially proposed revenue that will mitigate customer rate impact while permitting the Company to proceed with planned investments that are needed to maintain safe and reliable service. Furthermore, the Company

[36] PAWC St. 14-R, pp. 10-17, 24-27.
[37] PAWC St. 15-R, pp. 20-21.
[38] PAWC St. 14-R, pp. 4-5, 32-33.

and other parties to this proceeding have agreed upon a wide range of initiatives that will help customers, particularly low-income customers, with the cost of utility service during the COVID-19 emergency.[39] The Commission should, therefore, reject Mr. Rubin's unprecedented, unorthodox and facially illegal theory of ratemaking as well as his recommendation, based on that theory, to deny any rate increase at this time along with similar requests of CAUSE-PA, the OSBA and CEO. The Commission should approve the Settlement, which contains substantial customer assistance initiatives and provides exactly the kind of balance of company and customer interests that the Commission is obligated to achieve when setting utility rates.

IV. PAWC'S PROPOSED MULTI-YEAR RATE PLAN

PAWC's initial filing proposed a MYRP consisting of RY1 and RY2. RY1, covering the period from the end of the suspension period (January 28, 2021) to December 31, 2021, corresponds to a FPFTY authorized by Section 315(e). As proposed, RY2 would cover the twelve months beginning January 1, 2021 and ending December 31, 2021. The rates originally proposed for RYs 1 and 2 were designed to produce additional total-Company (water and wastewater) annual revenue of $92.4 million (annualized for a full year) and $46.2 million, respectively.[40] PAWC has agreed to withdraw its proposed RY2 increase if the Commission approves the Settlement. PAWC firmly believes the Settlement should be approved, which would render issues relating to RY2 moot. If the Settlement were not approved, the ALJ and the Commission would need to consider and rule upon the Company's MYRP. For that reason, this

[39] *See* Joint Petition, Section II.C (discussing new COVID-19-related measures and other enhancements to the Company's low-income assistance).

[40] PAWC St. 1, pp. 16-17. As Mr. Nevirauskas explained, because it had proposed a MYRP, PAWC calculated revenue requirement for RY1 using an annual "average" rate base but used a year-end rate base for RY2 (PAWC St. 1, p. 18). If the Settlement is not approved and the Company's MYRP is rejected, then RY1 would be the equivalent of a FPFTY, and RY1 revenue requirement should be calculated using a year-end rate base, consistent with PUC and appellate court precedent. PAWC St. 1-R, pp. 41-42; PAWC St. 5-R, pp. 2-4.

section briefly reviews the substantial evidence and compelling reasons why, unless the Settlement is approved, PAWC's proposed MYRP should be adopted as proposed.

- **Extended Period of Rate Stability.** The proposed two-year MYRP would provide an extended period of rate stability. Rates would be known and certain for the entire MYRP and potentially longer.[41] Therefore, residential customers would be able to establish household budgets, and commercial, industrial and municipal customers would be able to establish operating budgets, with greater precision using known and approved base rates.[42]

- **Better Operational and Business Planning by PAWC**. Without a MYRP, PAWC has an approximately one-year forward line-of-sight, during which it could reasonably expect its revenue stream from customers' rates to approximate its projected costs to furnish service. A two-year MYRP extends that forward look by an additional year. The extended line-of-sight would assist the Company's planning and enhance its ability to make informed decisions about important future initiatives and large expenditures with foreknowledge of the customer-rate revenues available to cover increases in costs.[43]

- **Increased Efficiency and Economies of Scale and Scope.** Water and wastewater utilities are the most capital-intensive segment of the utility industry.[44] PAWC anticipates making projected additions to its water and wastewater plant in service in 2020, 2021 and 2022 totaling over $780 million excluding acquisitions of other systems.[45] Many major capital projects have long lead times and must be designed, engineered and constructed over several years. A MYRP furnishes greater certainty about future revenues. Thus, a MYRP allows more flexibility for the Company to commit to a multi-year capital planning and implementation process with its contractors and suppliers that would enable the Company and its contractors and suppliers achieve greater efficiencies and capture economies of scale and scope. Those efficiencies and economies benefit customers by allowing PAWC to complete improvements in less time and at lower costs.[46]

- **Consistent with Purpose of Section 1330.** The Pennsylvania Legislature specifically identified MYRP as an alternative rate mechanism that promotes its purpose for adding Section 1330 to the Code: "It is the policy of the Commonwealth that utility ratemaking *should encourage and sustain investment* through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with efficient consumption of service." (Emphasis added.)

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[41] PAWC St. 1, p. 17.
[42] *Id.*, pp. 18-19.
[43] *Id.*, p. 19.
[44] *Id.*
[45] *Id*.
[46] *Id.*, pp. 19-20.

For the foregoing reasons, if the Settlement is not approved, PAWC's originally proposed MYRP should be adopted in the manner set forth in the Company's original filing.

V. RATE BASE

A. Utility Plant in Service

The increase in PAWC's utility plant in service since its last base rate case is the single largest factor driving the Company's need for an increase in revenues.[47] Since the end of the FPFTY in its last case (December 31, 2018), through the end of 2022, PAWC will have invested over $1.64 billion in new or replacement plant, and the overwhelming portion of this investment is in source of supply, treatment, distribution and collection assets.[48] Part of this investment is also being used to improve service to small and troubled water and wastewater systems that PAWC has acquired in furtherance of the Commission's policy that larger, viable water and wastewater companies acquire small, troubled systems and make the necessary improvement to assure safe and reliable service.[49] To address these diverse capital needs, PAWC must raise substantial amounts of debt and equity and, in the process, demonstrate its ability to provide a reasonable return in order to convince investors to commit their funds to the Company.

B. Average Versus Year-End Rate Base

The Company developed separate revenue requirements for RY1 and RY2 of its originally-proposed MYRP. Each test period's revenue requirement was based on projected annual plant in service, revenues and expenses. However, PAWC used a different approach for each year. For RY1, the Company employed an "average" rate base, which reflects its plant balances and accumulated depreciation at the beginning and end of that year divided by two.

[47] PAWC St. 1, pp. 8-9.
[48] *Id*.
[49] *Id*.

PAWC's annual depreciation was similarly averaged over the year. The Company employed an average rate base and depreciation accrual for RY1 because, if its MYRP were adopted as proposed, new base rates for RY2 would have become effective when RY1 ended. Thus, the difference between the Company's average rate base for RY1 and its rate base at the end of RY1 would have been automatically reflected in the RY2 rates effective January 1, 2022.[50]

In contrast to what would occur between RY1 and RY2, the rates that would have been established under the as-proposed MYRP for RY2 would have remained in effect until new rates were established in a subsequent base rate case. And, the Company had stated it did not expect to file another base rate case that would have new rates becoming effective as early as January 1, 2023. Thus, RY2, in the context of the Company's proposed MYRP, would have been comparable to the FPFTY in a case that employs only a FPFTY. For that reason, consistent with the terms of Section 315(e) as interpreted and applied by the Commission, the Company's rate base claim for RY2 reflected its balances of plant projected to be in service as of December 31, 2022. Similarly, the Company's annual depreciation expense claim for RY2 was based on the projected plant balances and retirements as of December 31, 2022, and its RY2 accrued depreciation reflected the accrued depreciation that would be recorded during the entire year ending December 31, 2022.

The approach described above (average rate base for RY1 and year-end rate base for RY2) has to change in order to accurately calculate the Company's revenue requirement under

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[50] An "average" rate base approximates the level of utility plant additions as of the midpoint of a FPFTY (June 30, 2021 in the case of RY1). Because the Company will continue to make plant additions through the end of the year, an "average" rate base understates its plant in service as of the first day of the next year. To illustrate, assume a utility has plant in service of $1 million as of January 1, 2021 and is adding $100,000 of new plant during 2021. The "average" plant in service for the year is $1.05 million (($1.0 million + $1.1 million) / 2). However, the year-end balance is $1.1 million. Therefore, if the utility's rates are based on "average" rate base and a "catch-up" rate adjustment is not implemented as of January 1, 2022, the utility's rates would be deficient beginning January 1, 2022 because they would not reflect the fixed costs of the $50,000 difference between "average" plant in service for the full year 2021 ($1.05 million) and the 2021 year-end plant-in-service balance ($1.1 million).

the Settlement, which provides that PAWC will withdraw its requested increase for RY2.[51] Specifically, eliminating RY2 has several follow-on effects that need to be recognized.

First, RY1 becomes the equivalent of a FPFTY. Second, absent a RY2 rate increase, there is no opportunity for a "catch-up" increase to reflect the difference between "average" rate base and the end-of-year rate base for 2021. Third, the "average" rate base originally used to establish the Company's RY1 revenue requirement must be increased to reflect a full year of plant additions and, in that way, establish the Company's rate base as of the end of 2021 rather than its mid-point, consistent with established Commission and Pennsylvania appellate court precedent for implementing FPFTYs.[52] Accordingly, the rate base that must be used to properly assess the Company's revenue requirement for 2021 under the Settlement consists of: (1) PAWC's "average" rate base for 2021 (as set forth PAWC Exhibit 3-A when a MYRP was still contemplated); and (2) the difference between "average" rate base and the Company's rate base as of the end of 2021, which is $ 131,810,840.[53] Similarly, the Company's original claim for its 2021 annual depreciation accrual reflected "average" utility plant in service and, therefore, must be annualized to match the use of end-of-year rate base, requiring an increase of $2,631,930.[54]

OCA witness Smith opposed year-end rate base for RY2 under the Company's originally filed MYRP because he contends a year-end rate base is never appropriate for use with any form of FPFTY. At the same time, he advocated the OCA's position opposing the MYRP, which would invalidate RY2. In so doing, he also argued for the use of average rate base and an

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[51] PAWC St. 1-R, p. 41.

[52] I&E witness Ethan Cline agreed that if RY2 is eliminated, then the Company's rate base for RY1 should be increased to reflect its rate base as of the end of 2021. I&E St. 4-SR, pp. 14-15 and 17. In PAWC Exhibit AEE-1RJ, the Company provided a calculation of the increase in its RY1 revenue requirement (at its proposed overall rate of return) related to the increase in rate base and annual depreciation needed to reflect the difference between average and end-of-year rate base, which is $16.49 million on a total-Company basis. PAWC Exhibit AEE-1RJ also shows the total-Company increase broken out by each water and wastewater system.

[53] PAWC St. 5-R, p. 3.

[54] *Id.*, pp. 3-4.

average annual depreciation accrual for RY1,[55] even though RY1 becomes a conventional FPFTY if RY2 is eliminated, as it would be under the terms of the Settlement. OCA witness Smith's position is contrary to clear guidance the PUC provided for implementing Act 11, which authorized FPFTYs and expanded the DSIC, and is contradicted by PUC precedent rejecting the same position advanced by Mr. Smith here.

The Commission instituted a generic proceeding to implement the amendments made to the Code by Act 11.[56] As part of its guidance at that docket, the Commission issued a Supplemental Implementation Order on September 21, 2016, that set the rules for implementing a DSIC in conjunction with the use of FPFTY. The rules established in the Supplemental Implementation Order are based upon, and clearly contemplate, that a utility relying upon a FPFTY may establish its revenue requirement based on end-of-FPFTY plant in service balances and rate base.[57]

The Commission affirmed the Supplemental Implementation Order's guidance in *UGI Electric 2018*, where it adopted and approved the presiding Administrative Law Judges' determination that "the plain language and policy of Act 11 permits UGI to base its FPFTY, and associated depreciation expense, on the use of a year-end rate base methodology."[58] The OCA appealed the Commission's decision to the Commonwealth Court, which affirmed the Commission's Order in a unanimous published opinion holding, in relevant part:[59]

> The Commission reviewed this language [in Section 315(e)] and concluded, within its particular expertise in the complex statutory scheme that is the Code, *Coalition for Affordable Util. Servs.*, 120

[55] For the same reasons, Mr. Smith opposed annualizing certain expenses, such as property taxes and employee compensation, as of the end of 2022.
[56] *See Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Aug. 2, 2012).
[57] PAWC St. 1-R, pp. 31, 35-39; *see also id.*, p. 33 (explaining that the end-of-FPFTY rate base approach was employed in all of the base rate cases settlements that occurred since the enactment of Act 11 where FPFTYs were employed).
[58] *UGI Electric 2018*, p. 21.
[59] *McCloskey/UGI*, 225 A.3d at 207-208.

> A.3d at 1094, that a year-end methodology could be applied to the FPFTY for UGI's rate case. This interpretation is supported not only by Section 315(e)'s plain language, but also by the purposes of Act 11, which were to mitigate the risks of regulatory lag and to aid in the resolution of the aged and aging nature of Pennsylvania's utility infrastructure. (Commission Decision at 23); *Final Implementation Order* at 1-3.

Significantly, in *UGI Electric 2018*, the Commission rejected all of the arguments that OCA Smith has advanced in this case, and found that:

- The plain language of Section 315(e) approving the use of FPFTYs expressly authorizes the use of end-of-year rate base and annual depreciation and, therefore, the OCA's claims that end-of-year rate base and annual depreciation would produce excessive utility earnings is wrong as a matter of law;[60]

- The OCA's concerns that using projections of plant in service as of the end of a FPFTY might overstate a utility's rate base are unfounded; the Legislature considered and addressed such concerns in Section 315(e) by requiring the submission of "appropriate data evidencing the accuracy of the estimates contained in the . . . fully projected future test year" and authorizing the Commission, "after reasonable notice and hearing, in its discretion, [to] adjust the utility's rates on the basis of such data . . . .";[61] and

- The OCA's reliance on decisions from other jurisdictions purporting to require the use of "average" rate base is erroneous and unpersuasive because the Commission is not bound by decisions from other jurisdictions and, in any event, "it would be inappropriate to consider another jurisdiction's statute where there was no indication that the General Assembly based Pennsylvania legislation on legislation adopted in other jurisdictions."[62]

For the foregoing reasons, PAWC's revenue requirement for the twelve months ending December 31, 2021, should be calculated using end-of-FPFTY rate base and annual depreciation to assess the justness and reasonableness of the revenue increase the Settlement would produce.[63]

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[60] *UGI Electric 2018*, pp. 24-25. *See also McCloskey/UGI, supra*, at 207-208.
[61] *UGI Electric 2018*, p. 26. *See also McCloskey/UGI, supra*, at 208 (affirming the PUC's determination that Section 315(e) includes protective measures to prevent or counteract concerns of "over projection" the OCA tried to raise.).
[62] *UGI Electric 2018*, p. 25. *See also McCloskey/UGI, supra*, at 208 (rejecting the OCA's reliance on a decision from another state where there was no evidence that the other state's statute was the same, or similar, to Section 315(e).
[63] For the same reasons, if the Settlement were not approved, then the revenue requirement used to establish rates for RY2 should be based on end-of-year rate base and annual depreciation for 2022.

C. Deduction from Rate Base of EADIT

OCA witness Smith proposed adjustments to require a highly accelerated amortization of certain "unprotected" Excess ADIT, contrary to the agreement reached in prior settlements about how those components of ADIT would be treated for ratemaking purposes.[64] The amortization issue is addressed fully in Section VIII, below, explaining why accelerated amortization is incorrect and should not be adopted. However, there is an inter-relationship between the Excess ADIT amortization and the Company's rate base. The unamortized portion of Excess ADIT is a deduction from rate base.[65] Therefore, if the Excess ADIT amortization period were to be shortened as OCA witness Smith proposes, the amount of unamortized Excess ADIT deducted from the Company's rate base must be reduced (i.e., rate base must be increased) to correspond to the more rapid amortization. If the OCA's adjustment to accelerate the amortization of certain Excess ADIT components is rejected, no concomitant rate base adjustment would be necessary.

D. Cash Working Capital

Cash working capital represents the funds needed to pay operating and maintenance ("O&M") expenses and taxes that, on average, are incurred in advance of the utility's receipt of revenues. PAWC calculated its cash working capital requirement using the accepted, PUC-approved lead-lag method.[66] No party disputed the methodology the Company employed or challenged its proposed revenue lag, expense lag or net lag (revenue lag minus expense lag). However, operating and maintenance expenses are an input to the calculation of cash working capital. Therefore, OCA witness Smith proposed adjustments to the Company's requested cash working capital that are concomitant to his proposed adjustments to O&M expenses. Mr.

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[64] *See* PAWC St. 10-R, pp. 11-24.
[65] PAWC St. 10-R, pp. 17-18.
[66] *Id.*, pp. 14-17.

Smith's proposed expenses adjustments are addressed in Section VII, *infra*, where the Company explains why none of Mr. Smith adjustments should be adopted. Nonetheless, if any changes are made to the Company's proposed operating and maintenance expenses, its cash working capital would need to be recalculated.

VI. REVENUES

The Company developed its claims for pro forma current revenue levels using the level of water and wastewater sales revenue generated during the historic test year ("HTY") ended December 31, 2019 and, in accordance with well-established PUC practice, making appropriate adjustments to eliminate non-recurring items and to annualize the effect of known or anticipated changes. These include adjustments to eliminate unbilled revenue; to annualize revenues associated with acquired systems; to reflect changes affecting the consumption of specific large customers; and to reflect changes in the number of customers during the HTY and as projected for the future test year ("FTY") ending December 31, 2020, RY1 and RY2. Additionally, the Company proposed adjustments to reduce its operating revenues at present and proposed rates for 2020, 2021, and 2022 to reflect the trend of declining per-customer residential and commercial consumption delineated by PAWC witness Gregory P. Roach.[67] Mr. Roach described the comprehensive statistical analysis he performed to quantify the ten-year trend of declining residential and commercial usage – 893 gallons, or 2.18%, and 2,171 gallons, or 0.78%, respectively – and discussed the reasons why the decline will continue for the foreseeable future.[68] All of the adjustments made in developing the Company's pro forma revenue claims

[67] *See* PAWC St. 4, pp. 12, 14, 18-19, 21, and 23-25.
[68] *See* PAWC St. 9, pp. 4-18; PAWC Exh. GPR-1. The primary drivers of the multi-year continuing trend of declining per-customer usage is water-efficient plumbing fixtures and water-efficient appliances, which are mandated by federal law, increased societal emphasis on conservation and the environment, and changes in consumer behavior in response to price signals provided by rising water and energy rates. *Id.*, pp. 19-33.

are described in the direct and rebuttal testimony of Ms. Ashley E. Everette (PAWC Sts. 4 and 4-R) and further detailed in PAWC Exhibit No. 3-A Revised.

The OCA's witness, Mr. Smith, proposed adjustments that would increase pro forma present rate revenues for RY1 and RY2 based on criticisms of PAWC's adjustment for declining residential usage.[69] First, he took issue with PAWC's forecasted residential decline for the FTY based on his assumption that residential water usage increased in PAWC's service territory during 2020 due to the work from home mandates and COVID-19 mitigation measures.[70] To the contrary, as Mr. Roach explained, the COVID-19 emergency is not expected to materially change the long-term trend of declining consumption.[71] Based on a careful review of Mr. Smith's surrebuttal testimony and final schedules, it appears he has withdrawn his adjustment to PAWC's 2020 residential revenue due to declining usage.[72]

Second, Mr. Smith erroneously believed that PAWC's RY2 adjustment was based on the decline in residential consumption from the beginning to the end of 2022.[73] As Ms. Everette pointed out, PAWC did not "annualize" the adjustment for declining residential consumption at December 31, 2022. Rather, it calculated the effect of declining usage on water sales revenue over an interval of 36 months from the mid-point of the HTY to the mid-point of RY2.[74] After reviewing Ms. Everette's rebuttal testimony, Mr. Smith withdrew his proposed adjustment to reduce the decline in residential consumption calculated by the Company for RY2 by one-half.[75]

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[69] *Id.*, pp. 18-38.
[70] OCA St. 2, pp. 52-53; OCA Exh. LA-1, Schs. C.1.B to C-1.H, line 1; OCA Exh. LA-2, Sch. C-1.
[71] PAWC St. 9-R, pp. 2-6 (adjusting for seasonal effects of warmer than normal weather during the Spring/early Summer, usage data through August 2020 are consistent with the long-term trend of declining per-customer usage).
[72] *Compare* OCA Exh. LA-1, Schs. C.1.B to C-1.H and OCA Exh. LA-2, Sch. C-1 with OCA Exh. LA-6, Schs. C and C.1.B to C.l.I.
[73] OCA St. 2, pp. 50-52; OCA Exh. LA-2, Schs. C-1.B to C-1.H.
[74] PAWC St. 4-R, pp. 8-9.
[75] OCA St. 2-SR, pp. 56-57 ("PAWC has identified other issues in its rebuttal including (1) declining residential and commercial consumption, (2) changes in revenue due to the change in number of customers, and (3) change in

VII. OPERATING AND MAINTENANCE EXPENSES

In developing its FTY, RY1 and RY2 claims, PAWC adjusted HTY expenses recorded on its books of account to reflect known and measurable changes during the HTY and to reflect the effect of changes in operating conditions that were reasonably anticipated to occur thereafter.[76] For expenses not subject to specific adjustments, PAWC used the average Gross Domestic Product Price Index forecast for future periods compiled by Blue Chip Economic Indicators to project future changes in those expenses during the FTY, RY1 and RY2.[77]

As shown in Appendix A, the Company's pro forma O&M expenses, at present rate levels, equal $243,222,615 and $250,628,307 for RY1 and RY2, respectively. The reasonableness of all expense claims has been demonstrated through extensive documentation provided in PAWC's supporting data and through detailed explanations of all adjustments by Mr. Nevirauskas, Ms. Everette, Ms. Gress, Dr. Chard and Mr. DeGrazia (PAWC Sts. 1, 1-R, 4, 4-R, 5, 5-R, 6, 6-R and 7). The discussion below addresses only those expense claims that parties not joining the Settlement have contested through testimony or exhibits.

A. Payroll Costs – Prorating Wage and Salary Increases

As explained by Ms. Gress, the Company calculated its payroll claim[78] on a position-by-position basis using PAWC's FTY, RY1 and RY2 authorized number of employees.[79] The Company's RY1 payroll claim reflects a prorated level of wage and salary increases. However,

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chemical and power costs. I am not pursuing further adjustments for these items in the context of the 2022 Rate Year."); *see also* OCA Exh. LA-8 (omitting Schedule C-1 adjustments for declining residential usage).

[76] *See* PAWC St. 1, pp. 9-10; PAWC St. 4, pp. 36-37; PAWC St. 5, pp. 22-36; PAWC St. 6, pp. 3-4; PAWC St. 7, pp. 2-3.

[77] PAWC St. 6, p. 4.

[78] The Company's payroll expense claim reflects: (1) salaries and wages (including performance compensation); (2) group insurance; (3) other benefits (401k, Defined Contribution Plan and Employee Stock Purchase Plan); and (4) payroll taxes. PAWC St. 6, p. 6.

[79] *See* PAWC Sts. 6, pp. 5-18, and 6-R, pp. 3-17; PAWC Exhs. 3-A Revised and 3-B.

PAWC annualized the net effects of the 2022 wage and salary increases as of the end of 2022 because the rates established for RY2 would remain in effect until a subsequent rate case.[80]

The OCA witness Smith opposed s PAWC's annualization of wage and salary increases as of the end of RY2[81] and proposed prorating PAWC's RY2 salaries and wages expense and payroll taxes by 9.5 months consistent with his contention that RY2 should reflect "average" and not year-end conditions.[82] He proposed concomitant adjustments to reduce employee benefits by the ratio of the OCA's recommended level of salaries and wages.[83] The proposed adjustments would reduce PAWC's O&M expense claim for RY2 by $401,279.[84]

The Commission has never approved Mr. Smith's average test year methodology, and, in fact, has done exactly the opposite. In *UGI Electric 2018* (pp. 61-63), the PUC concluded that the FPFTY should reflect year-end conditions and approved an annualization adjustment to recoup additional expenses incurred via salary and wage increases over the course of the FPFTY. However, because Mr. Smith's adjustments relate only to 2022 (RY2), this issue will be moot if the Settlement is approved. However, if the Settlement is not approved, all of Mr. Smith's proposed adjustments to RY2 payroll and related expenses should be rejected.

B. Performance Based Compensation (PAWC and Service Company)

Mr. Smith recommended that the PUC disallow one-half of PAWC's expense claim for APP compensation and 100% of LTPP compensation earned by PAWC and Service Company employees. In aggregate, his proposed adjustments would reduce PAWC's overall O&M expense claims in this case by $1.9 million (RY1) and $1.7 million (RY2).[85] Mr. Smith asserts

[80] PAWC St. 6, p. 7; PAWC Exh. 3-B.
[81] In the Joint Petition, PAWC has agreed to withdraw its proposed RY2 increase and, thus, if the Commission approves the Settlement, the OCA's arguments will become moot.
[82] OCA St. 2, pp. 60-65; OCA St. 2-SR, pp. 45-48.
[83] OCA St. 2, pp. 79-82; OCA St. 2-SR, pp. 50-53.
[84] *See* OCA Exhibit LA-8, Schedules C-5 to C-8.
[85] OCA Exh. LA-8, Schs. C-6, C-9 and C-10.

that his adjustments are appropriate because, in his opinion, half of APP compensation and all stock-based LTPP compensation hinge on corporate financial performance and stock price and, therefore, in his view, exclusively benefit shareholders.[86]

Mr. Smith's position is contrary to the PUC's prior decisions rejecting similar adjustments. Thus, in *PPL 2012*, both I&E and OCA recommended disallowing half of PPL's performance compensation expense. The PUC rejected that proposal and found:

> [B]ecause PPL's incentive compensation plan is reasonable, prudently incurred, and is not excessive in amount, PPL is permitted full recovery of this expense. PPL correctly notes that many of the cases the OCA and I&E rely on are distinguishable from this case because, in those cases there was not adequate evidence that the incentive compensation expense was reasonable or that there was a benefit to ratepayers. Our decision to allow this incentive compensation expense is consistent with our prior decision approving incentive compensation programs that are focused on improving operational effectiveness.[87]

In *UGI Electric 2018*, I&E recommended the complete disallowance of stock-based compensation claiming, like Mr. Smith here, that UGI Electric's stock-based performance compensation was based primarily on financial metrics. The PUC rejected the proposed adjustment:

> Where, as here, the incentive program as a whole establishes that the employees' eligibility to receive the benefit is based on performance duties and metrics directly related to the provision of service, the fact that the program includes a financial metric does not disqualify it from allowance as an expense for inclusion in the rate base. We find that because UGI's incentive compensation plan is reasonable, prudently incurred, and is not excessive in amount, UGI is permitted full recovery of this expense.[88]

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[86] OCA St. 2, pp. 68-77; OCA St. 2-SR, pp. 32-36 and 50.
[87] *PPL 2012*, p. 26 (internal citations omitted); *see also*, *e.g.*, *Pa. P.U.C. v. Aqua Pa., Inc.*, Docket No. R-00072711 (Order entered July 17, 2008).
[88] *UGI Electric 2018*, pp. 73-74 (internal citations omitted).

The performance compensation challenged by Mr. Smith is an integral part of the total compensation package necessary to compete for and retain qualified employees so that customers continue to receive safe and reliable service.[89] As the Commission found in *PPL 2012* and *UGI Electric 2018*, the focus for ratemaking purposes is the reasonableness of overall compensation awards, and not the size or nature of individual pieces of the compensation package. The Company presented empirical evidence that its overall compensation levels (base salary, short-term at-risk compensation (APP) and long-term at-risk compensation (stock-based compensation)) are reasonable. Willis Towers Watson conducted a compensation analysis[90] and concluded that American Water's compensation program is consistent with market best practices and comparable to the designs of utility peers.[91] Mr. Smith does not dispute the reasonableness of PAWC's or the Service Company's overall compensation packages. Consequently, on this basis alone, his proposed disallowance of performance pay is clearly wrong.

While some performance compensation plans award benefits based only on the achievement of financial goals, that is not the case here. The APP is structured to produce benefits for customers, emphasizing operational goals such as customer service, environmental compliance and a safe work environment.[92] Contrary to assumptions underlying Mr. Smith's testimony, satisfying key financial objectives provides significant benefits to customers, not just to shareholders of American Water. Achieving financial goals specified in the APP and LTPP will enable PAWC, American Water, and American Water's financing subsidiary, American Water Capital Corporation, to continue to access capital at reasonable rates.[93] In sum, there is no

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[89] *See* PAWC St. 6, pp. 10-11; PAWC St. 6-R, pp. 9-10.
[90] A copy of the Willis Towers Watson compensation analysis was provided to the OCA in response to OCA (Set XVIII) No. 2 and attached to Mr. Smith's direct testimony as part of CONFIDENTIAL Exhibit LA-4.
[91] PAWC St. 6-R, pp. 9-10; *see also* CONFIDENTIAL OCA Exh. LA-4, pp. 52-57.
[92] PAWC St. 6, pp. 10-11; *see also* CONFIDENTIAL OCA Exh. LA-4, pp. 9-11, 18, 24-26 and 30.
[93] PAWC St. 6-R, pp. 10-11 and 14-15.

valid justification for the PUC to depart from its precedent rejecting the same arguments raised by Mr. Smith for disallowance of performance compensation.

C. Capitalization Rate

PAWC used capitalization rates of 37.18% and 17.07% based on an average of the actual capitalization rates experienced during calendar years 2017 through 2019.[94] OCA witness Smith disagreed and proposed capitalization rates of 38.85% and 21.75% for PAWC's water and wastewater operations, respectively, which are the same as the actual capitalization rates experienced during the HTY.[95] Applying his revised capitalization rates, Mr. Smith proposed adjustments to reduce PAWC's payroll costs charged to O&M expense by $2.6 million (RY1) and $2.7 million (RY2).[96]

PAWC calculated capitalization rates using the same method employed in many prior cases. Thus, it selected capitalization rates based on a multi-year average to smooth the yearly figures. PAWC's proposed capitalization rates should be adopted in this case. The method consistently used and accepted in the past should not be changed simply because a different method would produce a lower expenses level *in this case*.

D. Annual Depreciation

The Joint Petition (¶ 29) provides that the depreciation rates set forth in the Company's depreciation study are appropriate for ratemaking purposes in this case for 2021 and that the Company will use those depreciation rates to calculate the depreciation expense it records on its regulated books of account. Consistent with the Joint Petitioners' agreement on this issue, no party in this case disputed the reasonableness of the Company's proposed depreciation rates.

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[94] PAWC St. 6, p. 8; PAWC St. 6-R, p. 6.
[95] OCA St. 2, pp. 82-83; OCA St. 2-SR, pp. 38-39.
[96] OCA Exh. LA-7, Sch. C-8A; OCA Exh. LA-8, Sch. C-8A.

VIII. TAXES

A. Taxes Other Than Income Taxes

The only issues OCA raised relating to taxes other than income taxes pertain to annualizing payroll taxes as of the end of RY2 and calculating property taxes based on plant balances as of the end of RY2. The Settlement eliminates RY2, and these issues are moot if it is approved. If the Settlement is not approved, then annualizing payroll taxes as of the end of RY2 and using plant balances as of that date for property tax expense is proper and consistent with the Commission's holding in *UGI Electric 2018*.

B. Income Taxes – Excess ADIT

The proper amortization period for Excess ADIT has a deep background that requires explaining several underlying and inter-related concepts. Those antecedent concepts are explained briefly below. With that explanation, the errors in OCA witness Smith's proposal to require an accelerated three-year amortization of Excess ADIT (which conflicts with his prior testimony and the OCA's agreement to settlements in prior PAWC cases) will become clear.

Deferred Taxes. Generally-accepted accounting principles require companies to depreciate the cost of an asset over its estimated useful life. Thus, a portion of the cost of the asset is shown on a company's income statement as an expense (a reduction in income) each year, and the value of the asset is diminished by a like amount on the company's balance sheet.[97] Businesses can deduct annual depreciation expense in calculating income tax, and federal tax law permits businesses to depreciate assets at a faster rate than they are depreciated on a company's income statements. This allows a business to deduct a larger proportion of the cost of an asset

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[97] *See* James H. Cawley & Norman J. Kennard, *A Guide to Utility Ratemaking Before the Pennsylvania Public Utility Commission* (2018), p. 113, published by the Pennsylvania Public Utility Commission and available at *https://www.puc.pa.gov/General/publications_reports/pdf/Ratemaking_Guide2018.pdf* ("Guide to Utility Ratemaking").

earlier in the asset's life. The total amount of depreciation is the same for both financial reporting and income tax purposes; only the rate (timing) of depreciation differs.[98]

Federal tax law imposes a special rule for regulated public utilities. Utilities cannot take tax deductions for certain forms of accelerated depreciation unless the timing difference between book and tax depreciation is "normalized" in establishing their rates.[99] "Normalization" is defined by the federal tax laws.[100] The PUC uses the normalization method in setting utility base rates for deductions that are subject to federal mandatory normalization.[101] However, it also uses the normalization method for deductions where normalization is not mandated by the tax law, including "repair" deductions, which are explained below.

Under normalization, the tax expense used to establish a utility's base rates reflects deductions that correspond to the utility's book depreciation. The difference between book and tax depreciation in the earlier years of an asset's life generates a "deferred" tax that the utility will pay to the government later in the life of the asset.[102] Because the utility recovers tax expense from customers before the tax has to be paid to the government, the "deferred" tax is the equivalent of a no-interest loan by the government that finances a portion of the cost of the asset.

If the normalization method is not used for ratemaking, then the federal tax deductions a utility receives would flow-through directly to the Company's income statement in the year(s) they occur. The utility would not use the difference between its book expense and its tax deductions as a no-cost loan to fund plant in service.

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[98] *Id.*
[99] *Id.*, p. 114.
[100] 26 U.S.C. § 168(f)(2).
[101] *See Barasch v. Pa. P.U.C.*, 507 A.2d 496 (Pa. 1985).
[102] *Guide to Utility Ratemaking*, pp. 113-114.

Accumulated Deferred Income Taxes (“ADIT”). The sum of deferred taxes recorded each year is shown on a utility’s balance sheet as ADIT. To reflect the no-interest loan represented by deferred taxes, ADIT is deducted from the utility’s rate base in base rate proceedings.[103] The ADIT associated with an asset is reduced, eventually to zero, in the later years of the asset’s life, when the deferred taxes are paid to the government. This is known as the ADIT “reversing” over time. Since ADIT is a deduction from rate base, a reduction in ADIT increases rate base.

Excess ADIT. EADIT was created when the federal income tax rate was reduced by the TCJA. To illustrate, when the tax rate was 35%, a utility obtained an ADIT tax loan of $350 for every $1000 of deferred taxable income. When the tax rate was reduced to 21%, the amount that has to be paid back to the federal government is 21% of $1000 or $210. The difference of $140 is a part of the original ADIT tax loan of $350 that a utility no longer has to pay back to the government.[104]

Protected and Unprotected Excess ADIT. EADIT is “protected” if federal tax law required the tax deductions that created the Excess ADIT to be normalized for ratemaking. EADIT is “unprotected” if those deductions were not required by federal law to be normalized for ratemaking purposes. The Commission, however, can – and does – use normalization for certain tax deductions even if federal tax law does not require it.

Ratemaking Treatment of Excess ADIT. Using the illustration above, if $140 of EADIT is related to protected ADIT, then the tax laws require the utility to continue to use the $140 as a no-cost loan to finance its plant in service over the life of the property that was funded by the ADIT. The $140 continues to be deducted from rate base, and the deduction diminishes

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[103] *Id.*
[104] Tr., pp. 764-767 (Wilde Redirect).

over the life of the property as $140 is amortized as a reduction to the utility's tax expense in setting rates. The amortization period for protected ADIT is determined using the Average Rate Assumption Method (ARAM), which approximates the remaining service life of the underlying utility assets. Under this method the tax loan and the service life of the property that the loan funded would expire at the same time.[105]

If the $140 is related to unprotected ADIT, then the tax laws do not require the $140 to continue to be reflected as a no-cost loan that funds a utility's plant in service. The utility could do two things with that $140.

First, the utility could continue to treat the $140 as a no-cost loan over the life of the property it finances. Therefore, it would continue to deduct the EADIT from rate base, amortize the EADIT as a reduction to tax expense for ratemaking using ARAM and reduce the EADIT balance (eventually to zero) ratably over the life of the property it finances. In that way, the ADIT tax loan and the depreciable life of the property would still expire at the same time. This is similar to treating the EADIT loan as if it were "protected." Tax benefits are matched with the life of the property that the tax benefits financed.

Alternatively, the $140 could be treated as a loan forgiveness. If that is done, then the proceeds of the loan could be used as a dollar-for-dollar credit against the utility's revenue requirement. The credit could be amortized over a period determined by the utility and approved by its regulator. The amortization period could be less than the depreciable life of the property funded by the tax loan. This is what the OCA proposes in this case – a steeply accelerated three-year amortization. If the OCA's approach were used in the illustration, then the $140 tax loan would be eliminated over three years. However, the utility would have to replace the no-cost tax

[105] *Id.*, pp. 765-766.

loan with funds from other sources that impose a cost equal to the utility's pre-tax weighted average cost of capital. Customers get a temporary reduction in revenue requirement from amortizing the loan forgiveness over three years but, when amortization ends, it is followed by a large increase in revenue requirement from the amortization expiring and the utility's need to replace the no-cost ADIT tax loan with funds at the utility's pre-tax overall cost of capital.[106]

Repair Deductions. Repair deductions are amounts PAWC recorded as capital expenditures for financial reporting purposes but the federal tax law permits it to deduct as an operating ("repair") expense in when the expenditure is made. The repair expenditures are depreciated over the entire service life of the repair property for book purposes, but they produce a tax deduction in the year of the expenditure. This creates a timing difference.

For ratemaking purposes, the federal tax laws would permit that timing difference to either be flowed-through or normalized. If flow-through were chosen, then the tax deductions would be recognized as a reduction to tax expense on the Company's books in one year. If normalization were chosen, the repairs would be treated as if tax deductions for those expenditures were taken ratably over the service lives of the repaired property. As previously explained, under normalization, the timing difference (the tax difference between the deductions used for tax reporting purposes and the deductions recognized for ratemaking) is deducted from rate base – it is treated as a no-interest loan from the federal government that will be repaid over the remaining service life of the repair property.

Repair deductions are central to the issue of the amortization period for EADIT because: (1) they represent the vast majority ($140 million) of PAWC's EADIT; (2) in prior PAWC base rate cases dating back to 2011, OCA witness Smith advocated normalizing the tax-book timing

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[106] *Id.*, pp. 766-768.

differences created by the repair deductions; (3) PAWC did, in fact, normalize the repair deductions pursuant to settlements (which the OCA joined) that were approved by the Commission; and (4) OCA witness Smith's proposal to amortize EADIT over three years is an improper attempt to radically depart from the way repair deductions have always been treated by PAWC for ratemaking purposes – with the OCA's agreement and the PUC's approval – since PAWC first began to obtain repair deductions.[107]

Intergenerational Equity/Inequity. Intergenerational equity refers to matching the rate recognition of the cost of an asset with the period over which the asset renders service to customers. If the fixed costs (e.g., depreciation, return and applicable tax benefits) of an asset are reflected in rates in a manner that reasonably approximates the service life of an asset, then intergenerational equity is achieved. If there is a mismatch between an asset's service life and the costs or tax benefits associated with the asset, intergenerational inequity occurs. The normalization method, by treating ADIT (and EADIT) as a no-cost loan that is repaid ratably over the life of the underlying asset, is able to preserve intergenerational equity. That was the reason OCA witness Smith strongly supported using the normalization method for repair deductions in prior PAWC rate cases. The flow-through method – which is fundamentally what OCA witness Smith, in a complete reversal of his prior position, is now proposing for unprotected EADIT – creates intergenerational inequity. It gives a disproportionate share of the tax benefits of an asset to customers in the earlier years of an asset's life and pushes a disproportionately larger share of the asset's cost to later in its service life.[108]

Commission "Discretion." OCA witness Smith tries to justify a radical departure from his earlier support for normalizing repair deductions by arguing that a three-year amortization of

[107] PAWC St. 10-R, pp. 17-22.
[108] PAWC St. 10, pp. 14-15.

repair-related EADIT is not prohibited by the federal tax laws and, therefore, the Commission has "discretion" to adopt his proposal.[109] Simply because the federal tax laws would not prohibit a three-year amortization does not mean the Commission has "discretion" to approve it. The Commission's discretion is limited by the undisputed agreement – which the PUC approved by approving prior PAWC rate case settlements – that repair deductions (which represent most of PAWC's EADIT) should be normalized for ratemaking purposes. If a deduction is normalized for ratemaking purposes, then EADIT related to that deduction should be treated the same as if the EADIT were "protected," and ARAM should be used for the amortization period.[110] Repair deductions cannot be treated as normalized for ratemaking purposes up to now but – inconsistently and contrary to long-standing practice – suddenly be treated as if the flow-through method had been used in the past. The Commission does not have "discretion" to approve such a radical departure from prior, approved ratemaking practices.[111]

The OCA's Prior Agreement To Normalize Repair Deductions And The Commission's Approval Of Normalization. A utility's ability to lawfully deduct "repairs" for federal income tax purposes arose in the 2007-2008 timeframe. At that time, the Internal Revenue Service agreed to allow utilities to change their methods of tax accounting to treat certain expenditures as "repairs," which could be deducted when made, rather than capital expenditures that must be depreciated over the life of repair property. The accounting method change occurred in December 2008 for American Water's subsidiaries, including PAWC.[112]

When a tax accounting change is made, the taxpayer applies the change to prior years for the relevant deductions. For the "repair" change, this created a large "catch-up" deduction. The

[109] OCA St. 2-SR, pp. 23-26.
[110] PAWC St. 10, p. 22.
[111] *Id.*
[112] *Id.*, p. 18.

taxpayer could claim the entire catch up deduction in the year the tax accounting change was made. PAWC's catch-up deduction was $213 million.[113]

In PAWC's 2011 base rate case (Docket No. R-2011-2232243), the Company proposed using the normalization method to reflect all repair deductions, including the catch-up adjustment, for ratemaking purposes. In that case, PAWC's Director of Rates and Regulations, Mr. Nevirauskas, explained that PAWC had voluntarily decided to use the normalization method because normalization provided the maximum benefit to customers.[114] PAWC could have used the flow-through method. Had it done so, the tax effect of its $231 million catch-up deduction would have been "flowed-through" to PAWC's income statement in the year the tax benefit was realized. And, because the flow-through would have occurred well before its rate case was filed, the catch-up adjustment would have been an out-of-period tax effect that could not benefit the Company's customers. Mr. Nevirauskas explained that "[n]ormalization preserves the benefit of the [$231 million] catch-up adjustment for customers by increasing accumulated deferred income taxes, which the Company has deducted from rate base in this case." In addition, Mr. Nevirauskas clearly stated that *all* of the tax consequences that flow from PAWC's decision to elect normalization for repairs would apply in future rate cases: "The normalization benefit will continue in the future until the accumulated deferred income taxes 'reverse' over the life of the book assets to which they relate."[115]

Mr. Smith testified in PAWC's 2011 rate case. He strongly supported the normalization of repair deductions and agreed that PAWC's decision to use the normalization method

[113] *Id.*
[114] *Id.*, p. 19.
[115] *Id.*

preserved the catch-up adjustment so that it could benefit customers in that rate case and in future rate cases over the entire life of the underlying property:

> Q. Is it appropriate for ratemaking purposes that the tax savings resulting from the repairs and maintenance tax accounting method change should be normalized and reflected as a rate base deduction?
>
> A. Yes. A large impact of the tax accounting method change reflects the application on the Company's (and its parent company's) 2008 tax return of the new tax accounting method for repairs as a cumulative adjustment retroactively calculated to include prior years. There is also a 2009 test year impact and an annual impact for 2010 and 2011. In each of these years, the deduction for repairs under the new tax accounting method is significantly larger than it would have been under the previous tax accounting method. By normalizing the tax savings, similar to what is done for book-tax timing differences related to accelerated tax depreciation, ratepayers can benefit from the source of funds provided by such tax savings. *Another option would be to flow through the tax savings to ratepayers; however, it is unclear if the savings resulting from this major tax accounting method change relating to years prior to the test year could be legitimately returned to ratepayers*. The normalization treatment helps assure that all tax savings realized by the method change will benefit ratepayers by reducing rate base.[116]

The Joint Petition for Settlement (Paragraph 8.g.) in the 2011 case incorporated the Joint Petitioners' agreement that PAWC should treat repairs for ratemaking purposes as subject to normalization:

> Further, all capitalized repairs deductions claimed on a tax return have been normalized for ratemaking purposes and the appropriate related amount of tax effect of those deductions has been reflected as Accumulated Deferred Income Taxes as a reduction to PAWC's rate base.

PAWC continued to use the normalization method for repairs deductions, including the $231 million catch-up deduction, in all of its subsequent rate cases. Mr. Smith was the OCA's

[116] *Id.*, pp. 18-19 (emphasis added).

witness on tax issues in all of those cases. In each case, he accepted the normalization method. He continued to recognize, as he did in his 2011 testimony, that normalization, including normalization of the catch-up adjustment, produced a significant benefit to customers as compared to the flow-through method because it distributes the tax effects of the repairs deductions over the entire life of the underlying property.[117]

In this case, however, Mr. Smith recommends amortizing repairs-related EADIT over a very short three year period because he claims the tax laws did not "require" normalization of repair deductions and, therefore, the associated EADIT is not "protected." However, in 2011, when the tax laws also did not require PAWC to normalize repair deductions, PAWC – with the support of the OCA and Mr. Smith – used the normalization method in order to provide substantial benefits to customers, including the $213 million rate base reduction for the catch-up deduction that normalization preserved for customers. As even Mr. Smith conceded at that time, PAWC could have proposed the flow-through method and kept for itself the tax benefits of the catch-up adjustment.[118] Instead, the Company treated repair deductions for ratemaking purposes *as if the tax laws required them to be normalized* because doing so benefited customers. This meant that repair deductions would be treated for ratemaking purposes "similar to what is done for book-tax timing differences related to accelerated tax depreciation."[119]

Mr. Smith wanted to make this issue about what the tax laws may or may not require. In fact, the issue is about what the parties agreed to (and the Commission approved) in prior settlements. The parties agreed that repair deductions would be treated for ratemaking purposes

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[117] *Id.*, p. 20. In fact, as late as 2018, Mr. Smith testified in an Aqua Pennsylvania base rate case in favor of normalizing repair deductions and stated that normalization provides significant benefits to customers by creating ADIT that is deducted from rate base and not flowed-through as a reduction to current tax expense. *Id.*, p. 21.
[118] *Id.*, p. 20 (quoting Mr. Smith's testimony that the catch-up deduction could be "legitimately returned to ratepayers" only if the normalization method were used).
[119] This is the exact language of Mr. Smith testimony in PAWC's 2011 base rate case. *Id.*, at 19-20.

"similar to what is done for book-tax timing differences related to accelerated tax depreciation." EADIT recorded for "book-tax timing differences related to accelerated depreciation" must be amortized using ARAM, as Mr. Smith agrees.[120] Therefore, consistent with the normalization method the parties agreed to use for repair deductions, ARAM is appropriate for amortizing repair-related EADIT (the bulk of PAWC's EADIT) in this case. Now, Mr. Smith and the OCA want to renege on their prior agreement. The amortization periods proposed by the Company are consistent with the principle affirmed by Mr. Smith and the OCA in 2011 (and subsequent cases) that the tax effects of repairs deductions – all of the effects, not just the ones the OCA wants to cherry-pick – should be reflected over the life of the underlying property.

Significantly, in Duquesne Light Company's 2018 base rate case, the OCA itself recognized that ARAM was the proper basis for amortizing EADIT related to normalized repair deductions and agreed to a specific term to that effect in the settlement of that case.[121] Contrary to Mr. Smith's attempt to minimize the importance of the OCA's agreement in Duquesne Light's case, PAWC is not suggesting that the Duquesne Light settlement is "precedent" or is binding on PAWC. Rather, the settlement, and the PUC's approval of it, has significant persuasive value. It shows that PAWC's approach to amortizing repairs-related EADIT will produce just and reasonable rates in this case, just as the PUC agreed it would in Duquesne Light's case.[122]

In addition to violating prior Commission-approved treatment of repair deductions, the OCA's proposed three-year amortization would have significant adverse effects in two other

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[120] OCA St. 1, p. 99.

[121] PAWC St. 10, p. 18 (quoting the Duquesne Light settlement: "Duquesne Light will continue to use normalization accounting with respect to the benefits of tax repairs and Internal Revenue Code ('IRC') Section 263A deductions. Duquesne Light will reverse EDIT with regard to prior tax repairs and IRC Section 263A deductions pursuant to the Average Rate Assumption Method ('ARAM') used to reverse EDIT associated with accelerated depreciation deductions.") The settlement was approved by the PUC. *Pa. P.U.C. v. Duquesne Light Co.*, Docket No. R-2018-3000124 et al (Opinion and Order entered Dec. 20, 2018).

[122] *See* PAWC St. 10-R, pp. 23-24.

respects. First, it would create substantial intergenerational inequity by distributing the benefits of EADIT amortization over a short three-year period – a fraction of the actual service life of the property that the EADIT is financing. Thus, there is an enormous mismatch between the distribution of tax benefits that reduce the fixed costs of the Company's plant in service and the actual service life of that plant. EADIT tax benefits would be clustered in three years, while the plant that generated those tax effects would remain in service to customers – and its on-going fixed costs would continue to be borne by customers – over several decades into the future.[123]

Second, the reduction in revenue requirement produced by a three-year amortization is merely a short-term effect. The three-year amortization ends as of December 31, 2023, which, alone would increase PAWC's revenue requirement by approximately $38.7 million.[124] Because the entire no-cost tax loan represented by a three-year EADIT amortization would be eliminated by December 31, 2023 as well, the Company's rate base would increase by approximately $116 million. The rate base increase would have to be financed at the Company's pre-tax weighted average cost of capital, which would also increase PAWC's revenue requirement substantially. The Company's proposal for amortizing EADIT avoids the yo-yo effect on customers of a temporary reduction in revenue requirement followed immediately thereafter by a large increase.

The OCA's proposed three-year amortization of EADIT is contrary to long-standing, Commission-approved use of normalization by PAWC for repair-related deductions; is contradicted by OCA witness Smith's testimony in prior PAWC base rate cases; violates the agreement for use of normalization for repair deductions memorialized in prior PAWC rate case settlements; is inconsistent with the OCA's position in the Duquesne Light 2018 rate case; would create significant intergenerational inequity; and would produce only a short-term revenue

[123] PAWC St. 10, pp. 14-15.
[124] *See* OCA Exhibit LA-6, p. 3, line 20, col. C.

requirement reduction followed immediately by a large increase in customer rates. The OCA's adjustment should be rejected.

IX. RATE OF RETURN

As a public utility whose facilities and assets have been dedicated to public service, PAWC is entitled to an opportunity to earn a fair rate of return on its investment. PAWC and the other Joint Petitioners reached agreement on a rate increase that will permit the Company to continue its planned investment in new and replacement plant and equipment, including investments necessary to meet the significant challenges posed by the small, troubled systems that the Company has acquired with Commission approval.

The OCA, a non-settling party, has proposed to *reduce* the Company's rates based in large part on proposed return on equity ("ROE") of only 8.00% (water) and 8.05% (wastewater). These ROEs are well below the authorized returns for *all* water utilities in the United States for the last decade, excluding one South Carolina utility that serves only 16,500 water and 11,800 wastewater customers, is a fraction of the size of PAWC, and had significant operational problems – in contrast to PAWC's superior performance.[125] The OCA's proposed ROE is also well below the 9.90% ROE authorized by the Commission for the water utility DSIC on October 29, 2020, based on data through September 28, 2020.[126]

In support of its proposed increase, the Company presented the expert testimony of Ann Bulkley, Senior Vice President of Concentric Energy Advisors. Ms. Bulkley has previously appeared before the Commission on behalf of the Company and testified on ROE issues before more than thirty public utility commissions across the United States.[127] Ms. Bulkley analyzed

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[125] PAWC St. 13-R, pp. 14-15 & PAWC St. 13-RJ, p. 4.
[126] *Quarterly Earnings Report*, p. 27.
[127] *See* PAWC St. 13, Appendix A.

current market conditions, applied traditional ROE models accepted by the Commission, and recommended an ROE of 10.8%. She also explained that the ROE modeling performed by OCA witness Rothschild, failed to consider the effects on traditional ROE models of distortions in financial markets arising from COVID-19 and suffered from other defects. Properly adjusted for those flaws, his results were consistent with Ms. Bulkley's recommendation.[128]

The legal standards to be used by the Commission in determining what return rate is fair are well-established, having been set forth by the United States Supreme Court in *Bluefield Waterworks and Imp. Co. v. P.S.C. of West Virginia*, 262 U.S. 679 (1923), over eighty years ago:

> Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility of its property in violation of the Fourteenth Amendment. (262 U.S. at 690)

The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties (262 U.S. at 693). These principles were applied by the PUC in *UGI Electric 2018* and *PPL 2012*, and have been adopted by Pennsylvania appellate courts, in numerous cases.[129]

The return allowed to investors must also be commensurate with the risk assumed, as the Supreme Court has stated in three landmark opinions. *Bluefield*, *supra*, requires that the rate of return reflect:

> . . . a return on the value of the [utility's] property which it employs for the convenience of the public equal to that generally being made at the same time on investments in other business undertakings which are attended by corresponding risks and uncertainties. . . . (262 U.S. at 692)

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[128] PAWC St. 13-R, pp. 6-8.
[129] *See, e.g.*, *Lower Paxton Twp. v. Pa. P.U.C.*, 13 Pa. Cmwlth. 135, 317 A.2d 917 (1974).

Twenty-one years later, the Supreme Court reiterated that standard in *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944), as follows:

> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital. (320 U.S. at 603)

Later, in reaffirming *Hope*, the Supreme Court, in *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 313-14 (1989) observed that "[o]ne of the elements always relevant to setting the rate under *Hope* is the return investors expect given the risk of the enterprise."

Determining a fair rate of return requires reviewing many factors, including: (1) the earnings necessary to assure confidence in the financial integrity of the company and maintain its credit standing; (2) the need to pay dividends and interest; and (3) the amount of the investment, the size and nature of the utility, its business and financial risks, and the circumstances attending its origin, development and operation.[130]

In this section, the Company reviews the flaws in Mr. Rothschild's recommendations based on the evidence in this proceeding, which include errors in his proposed capital structure and recommended cost of common equity (the cost of the Company's long-term debt is not in dispute). Because the OCA's resulting ROE is plainly unreasonable and inconsistent with Commission precedent as described below, the Commission should reject Mr. Rothschild's recommendations and, in analyzing PAWC's revenue requirement to assess the reasonableness

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[130] *Pa. P.U.C. v. Pennsylvania Gas and Water Co. - Water Div.*, 19 Pa. Cmwlth. 214, 233, 341 A.2d 239 (1975); *Lower Paxton Twp.*, *supra*.

of the Settlement or if the Settlement is not approved, adopt the capital structure and ROE supported by Ms. Bulkley.

A. Capital Structure

In determining the overall rate of return, the Commission considers the percentages of long-term debt, preferred stock and common equity in the Company's capital structure and the capital cost rate of each component. In developing her recommended fair rate of return, Ms. Bulkley employed the Company's anticipated year-end capital structure ratios for Rate Years 1 and 2, as shown below, as these ratios are indicative of those PAWC will maintain to finance its claimed rate base during the period it proposed that its new rates would be in effect:[131]

	Rate Year 1 (2021)	**Rate Year 2 (2022)**
Total Company		
Common Equity	55.15%	55.15%
Preferred Stock	0.06%	0.01%
Long-Term Debt	44.79%	44.84%
Water Services		
Common Equity	56.06%	55.97%
Preferred Stock	0.06%	0.01%
Long-Term Debt	43.88%	44.02%
Wastewater Services		
Common Equity	50.37%	50.73%
Preferred Stock	0.05%	0.01%
Long-Term Debt	39.44%	39.90%
WW Specific Debt	10.14%	9.36%

The Commission has made clear that a utility's actual capital structure is to be used in rate of return analysis unless that capital structure is atypical, and has rejected the use of a "hypothetical" capital structure.[132] Ms. Bulkley's testimony established that PAWC's capital

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[131] PAWC St. 13-R, p. 9. The use of end of an end of test year capital structure has been approved by the Commission in a number of prior rate proceedings involving the Company and other water utilities. *See*, *e.g.*, *Pa. P.U.C. v. Philadelphia Suburban Water Co.*, 75 Pa. P.U.C. 391, 426-29 (1991); *Pa. P.U.C. v. Pennsylvania-American Water Co.*, 2002 Pa. PUC LEXIS 1, *78-*79.
[132] *See PPL 2012*, p. 68.

structure was well within the range of equity ratios of a proxy group of utilities,[133] which consisted of six water companies followed by the *Value Line Investment Survey* (including PAWC's parent, American Water) and seven natural gas local distribution companies included due to the relatively small number of water companies, consistent with the approach of other commissions.[134]

Mr. Rothschild agreed with the Company's proposed capital structure for its wastewater operations.[135] For PAWC's water operations, however, he recommended a lower equity ratio based on an average of the equity ratios of his proxy group – exactly the type of "hypothetical" capital structure previously rejected by the Commission.[136] Mr. Rothschild's proxy group was also smaller than Ms. Bulkley's proxy group, which further undermined his results.[137]

Mr. Rothschild's proposed change in PAWC's capital structure understates the cost of equity capital for PAWC because it produces a weighted average cost of equity lower than PAWC requires under its actual capital structure shown above. Notably, Mr. Rothschild never explained the inconsistency of his acceptance of the capital structure for PAWC's wastewater operations and his assertion that a hypothetical average must be used for PAWC's water operations. Moreover, he used the mean equity ratio of his much smaller proxy group, not the median, which effectively resulted in an equity percentage that was biased towards the lower end of his proxy group range.[138] In light of the hypothetical (and improper) calculations of Mr. Rothschild, as well as his inconsistent approach to PAWC's water and wastewater operations, the OCA's proposed capital structure for PAWC's water operations should be rejected.

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[133] PAWC St. 13, p. 79.
[134] *Id.*, pp. 40-41.
[135] *Id.*, p. 13.
[136] *Id.*
[137] PAWC St. 13-R, p. 112 (describing the "wide range" of equity ratios in the smaller proxy group selected by Mr. Rothschild).
[138] *Id.*, pp. 112-13.

B. Cost of Long-Term Debt

The Company's proposed cost rate for long-term debt was based on actual and projected debt issues, with interest rates on anticipated future issuances projected based on the spread over Treasury yields. Mr. Rothschild did not dispute PAWC's proposed long-term debt cost rates.[139]

C. Common Equity Cost Rate

Given PAWC's capital needs, it is critically important that PAWC have access to sufficient capital on reasonable terms.[140] This task, which would be formidable under normal circumstances, is all the more difficult today because of current market volatility due to the COVID-19 emergency, unsustainably high utility stock valuations, and recent federal tax reform.[141] The extreme volatility has led to high valuations of utility stocks and low dividend yields as investors move into dividend paying stocks.[142] Such valuations can have the effect of depressing dividend yields, resulting in overall lower estimates of the cost of equity. This effect on *current* ROE estimates must be taken into account in setting an ROE for the *prospective* multi-year period that PAWC's rates will be in effect.[143] In addition to market volatility and distortions in current utility stock valuations, the TCJA has had a negative effect on regulated utilities (and their parent holding companies) by reducing cash flow, which continues to raise serious concerns for credit agencies.[144]

Because the cost of common equity does not lend itself to precise mathematical computation, Ms. Bulkley took into account the results of a variety of approaches recognized by the Commission, including the discounted cash flow model ("DCF"), the capital asset pricing

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[139] OCA St. 3, p. 13. Mr. Rothschild believed that the cost of debt should be recalculated if a multi-year rate plan was approved, *see id.*, which is inapplicable in light of the Settlement.
[140] PAWC St. 13, pp. 65-67.
[141] *Id.*, p. 11.
[142] *Id.*, pp. 19-29.
[143] *Id.*, p. 10.
[144] *Id.*, pp. 29-36.

model ("CAPM") and the expected (or comparable) earnings method. Ms. Bulkley also emphasized that recent market conditions could cause the DCF and CAPM models to underestimate the Company's actual cost of equity over the period rates would be in effect.[145]

Even though OCA witness Rothschild stated that "COVID-19 has fundamentally changed capital markets,"[146] he concluded that those same market conditions did not affect his ROE model results and chose to rely primarily on the DCF model.[147] Mr. Rothschild's ROE modeling produced ROEs of 8.0%-8.05%, which are below the ROEs of virtually every other water utility in the United States since 2010.[148] Ms. Bulkley demonstrated that Mr. Rothschild's ROE modeling has methodological flaws and should not be relied upon by the Commission, as explained below.

1. Discounted Cash Flow

The DCF model is designed to find the present value of an expected future stream of net cash flows during an investment holding period discounted at the required ROE. The ROE is the total anticipated return rate and is commonly expressed in terms of the sum of a representative dividend yield plus a growth rate to capture investors' expectations of future increases in cash dividends.[149]

Ms. Bulkley calculated average dividend yields for the proxy group for the 30-, 90-, and 180-day trading days as of March 31, 2020.[150] Since utility dividends generally increase from year to year and are paid quarterly, not continuously, she adjusted her findings to capture one-

[145] *Id.*, p. 47.
[146] OCA St. 3, p. 14.
[147] *Id.*, p. 15.
[148] *See* PAWC St. 13-R, p. 15, Figure 3.
[149] PAWC St. 13, p. 48.
[150] *Id.*, p. 49.

half of the anticipated dividend growth.[151] This adjustment is needed to recognize investors' expectations that the dividend will be raised at some point during the ensuing four calendar quarters and has been approved by the Commission in any number of prior rate proceedings.

Once the dividend yield is calculated, the proper growth rate must be developed. To this end, Ms. Bulkley considered a variety of published long-term growth rates and adjusted the dividend yield to ensure that the growth rate and dividend yield were internally consistent.[152] In considering the results, she also eliminated as outliers any ROE estimates below 7.00 percent based on the yield on the 30-year Treasury bond (plus a minimum equity risk premium based on her CAPM analysis), consistent with a recent decision of the Federal Energy Regulatory Commission.[153] The resulting average dividend yield was lower than the average dividend yield for natural gas and water utilities over the last 10 years. Ms. Bulkley explained that this result is significantly below normal market values and is attributable to high utility stock valuations that are unlikely to be sustainable, and other ROE estimation models should be given additional weight.[154] This conclusion is consistent with Commission guidance.[155] The results of Ms. Bulkley's constant growth DCF analysis are shown in PAWC St. 13 at page 53.[156]

Mr. Rothschild calculated a DCF cost of equity between 7.84 and 7.96 for his proxy group, which had several key flaws. Instead of using earnings-per-share ("EPS") growth rates consistent with the Commission's recent decision in *UGI Electric*,[157] Mr. Rothschild used

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[151] *Id.*, p. 50.
[152] *Id.*, p. 51.
[153] *Id.*, pp. 51-52, n. 44.
[154] *Id.*, p. 54.
[155] *UGI Electric 2018*, pp. 104-05 ("Sole reliance on one methodology without checking the validity of the results of that methodology with other cost of equity analyses does not always lend itself to responsible ratemaking. . . [W]here evidence based on the CAPM and RP methods indicates that the DCF-only results may understate the utility's current cost of equity capital, we will consider those other methods, to some degree, in evaluating the appropriate range of reasonableness for our equity return determination.").
[156] Ms. Bulkley updated her DCF analysis in PAWC St. 13-R, p. 19 & Schedule 2.
[157] *UGI Electric*, pp. 90-93 (rejecting OCA's proposal to use retention rates).

retention growth rates, which include additional assumptions regarding future earnings that may not be valid and add increased risk of forecasting error.[158] In addition, Mr. Rothschild does not account for the fact that dividend yields are well below historical averages due to the current high valuation of water utilities, which are expected to decline.[159] Adjusting Mr. Rothschild's analysis to use earnings growth rate projections raises his ROE range of 7.84 to 7.96 percent to 9.30 and 9.21 percent, which is likely still understated due to the high dividend yields and, therefore, not reliable under current market conditions.[160]

2. Capital Asset Pricing Model

Ms. Bulkley also employed the Capital Asset Pricing Model (CAPM). Under the CAPM method, the expected common equity return is determined by adding a market premium to a risk-free rate of return. The market premium, consistent with modern portfolio theory, is proportional to the non-diversifiable, or systematic, risk of a particular security. The non-diversifiable risk is obtained through the application of a "beta", which indicates the risk of an individual stock relative to the risk of the entire market.[161] In other words, beta measures the volatility of the return for a particular security relative to the volatility of the market as a whole; the lower the beta, the less risky the stock, and the lower the cost of equity.

To estimate the risk-free rate, Ms. Bulkley she used the current 30-day yield on 30-year Treasury bonds and projected 30-year Treasury bond yields for the third and fourth quarters of 2020 and for the period 2021 through 2025. Given current market conditions, she placed more weight on the projected yields. Ms. Bulkley used Beta coefficients for the proxy group

[158] PAWC St. 13-R, pp. 73-74.
[159] PAWC St. 13-R, pp. 75-76.
[160] *Id.*, pp. 79-80. Mr. Rothschild also performed a non-constant growth DCF calculation but acknowledged that he is not relying on this calculation. OCA St. 3-SR, p. 7.
[161] PAWC St. 13, pp. 54-55.

companies as reported by Bloomberg and Value Line, which are based on ten years of weekly returns relative to the S&P 500 index (Bloomberg) and five years of weekly returns relative to the New York Stock Exchange Composite Index.[162] She estimated the market risk premium based on the expected return on the S&P 500 Index less the 30-year Treasury bond yield. In addition, Ms. Bulkley considered the results of another form of CAPM (the "Empircal CAPM"). This method calculates the product of the adjusted Beta coefficient and the market risk premium and applies a weight of 75.00 percent to that result, and then applies a 25.00 percent weight to the market risk premium, without any effect from the Beta coefficient, and sums the result. This methodology addresses the tendency of the "traditional" CAPM to underestimate the cost of equity for companies with low Beta coefficients, such as regulated utilities.[163] Ms. Bulkley's analysis indicated traditional CAPM and Empirical CAPM ROEs of 9.58% to 12.12% (with a mean of 10.96) if PAWC's parent company data are included in the proxy group, and 9.68% to 12.11% (with a mean of 11.00%) if PAWC's parent company data are not included.[164]

Mr. Rothschild disagreed with Ms. Bulkley's CAPM analysis and proposed changes to use a spot yield as of July 31, 2020 on the 30-year Treasury Bond, calculate betas using options data on a single trading day, and give more weight to market betas for the past six months (when the economic effects of COVID-19 produced major dislocations in the market).[165] Similarly, in calculating a market risk premium, Mr. Rothschild used a weighted risk premium based on three-month data but also used options contracts for a single trading day, which results in a 100 basis point decline compared to a more appropriate three-month average.[166] Ms. Bulkley explained

[162] PAWC St. 13, pp. 56-57.
[163] *Id.*, pp. 58-59.
[164] *Id.*, 59-60. Ms. Bulkley updated her traditional CAPM and Empirical CAPM analyses in PAWC St. 13-R, p. 19.
[165] OCA St. 3, pp. 48-50; PAWC St. 13-R, pp. 82-92.
[166] PAWC St. 13-R, pp. 96-97.

the errors in his approach and also refuted his claims that her CAPM calculation was not market-based, noting that her method was consistent with that used by the Federal Energy Regulatory Commission and other state commissions.[167] Once adjusted to rely on longer periods, Mr. Rothschild's CAPM analysis results in a much narrower range (10.97 to 12.46 percent, instead of 5.83 percent to 11.28 percent), which again demonstrates that Mr. Rothschild's recommendation of 8.0 percent should not be accepted by the Commission.[168]

3. Expected Earnings Approach

The third method used by Ms. Bulkley is the expected earnings approach. Although this method is not marked-based (because it examines returns on book value, rather than market value), it provides further evidence of investor return requirements when properly analyzed. As Ms. Bulkley explained, "[t]he use of an Expected Earnings approach based on the proxy companies provides a range of the expected returns on a group of risk comparable companies . . . useful in helping to determine the opportunity cost of investing in the subject company, which is relevant in determining a company's ROE."[169] Using projected ROE information from *Value Line*, Ms. Bulkley calculated a mean for the proxy group of 11.33 percent and a median of 11.72 percent (including American Water) and a mean of 11.29 percent and a medium of 10.84 percent excluding American Water. While Mr. Rothschild objects that the Expected Earnings approach does not represent a cost of equity, the approach is a well-recognized mechanism for considering the opportunity costs that investors may forgo if greater returns are available.[170] Furthermore,

[167] PAWC St. 13-R, pp. 97-98.
[168] *Id.*, pp. 100-01.
[169] PAWC St. 13, p. 61.
[170] *Id.*, p. 63; PAWC St. 13-R, p. 106.

his comparison to general small capitalization stocks is inappropriate.[171] In contrast, the Ms. Bulkley properly relies upon projected ROEs of the water and gas utilities in her proxy group.

D. Business Risks and Management Performance

As described above, the determination of an appropriate ROE requires consideration of many factors. In this proceeding, Ms. Bulkley highlighted several crucial factors for consideration by the Commission:

- ***Risk Associated with Capital Expenditure Program***. Credit agencies have expressed concern that PAWC's significant forecasted capital investments in combination with the cash-flow reductions produced by the TJCA and acquisitions of troubled utilities, are placing increased pressure on the PAWC's financial measures that make the Company increasingly dependent on rate case filings to recover its capital expenditures.[172]

- **Risks Associated with Environmental and Water Quality Regulations**. PAWC faces extensive environmental and regulatory risks as a water and wastewater utility that include expanded regulatory scrutiny and changes in a wide variety of regulations, including the federal "Lead and Copper Rule," source water protection, and evolving requirements of National Pollutant Discharge Elimination System permits.[173] These factors, plus the continuing need to rehabilitate, replace, and enhance aging infrastructure, add to risk factors PAWC faces to assure that it meets its statutory obligation to furnish safe, adequate and reliable water service.

The Company presented substantial evidence demonstrating that, in the face of the foregoing risks and challenges, it exhibited excellent management performance in a variety of areas critically important to assuring safe, reliable and reasonable service, including source water protection and monitoring, extensive system additions and upgrades, and delivering a variety of public benefits through acquisitions.[174] Ms. Bulkley determined that PAWC's superior management performance should be appropriately recognized by the Commission pursuant to

[171] OCA St. 3-SR, pp. 9-10.
[172] PAWC St. 13, p. 68.
[173] PAWC St. 3, pp. 45-53.
[174] PAWC St. 2, pp. 7-9; PAWC St. 3, pp. 4-35; PAWC St. 8, pp. 4-14; PAWC St. 13-R, p. 106 (discussing comparable risks).

Section 523 of the Code by granting an ROE at the upper end of the 10.00-10.80% range she recommended.[175] If the Commission were to authorize an ROE less than 10.80%, Ms. Bulkley recommended that it add a management performance adjustment of no less than the 25 basis points proposed by Mr. Nevirauskas.

In contrast to Ms. Bulkley's consideration of PAWC's operational risks and management performance, Mr. Rothschild argued that PAWC's originally proposed MYRP and RCS reduced its risk. However, both the MYRP and RCS would be withdrawn if the Settlement is approved. Apart from those now-moot points, Mr. Rothschild could only offer the unsubstantiated claim that PAWC's risk level "is likely a little less lower" than the water utilities in his proxy group.[176] Similarly, his primary assertion that the Commission's 2008 recognition of a water company's superior performance with an identical 25 basis point increase should not be applied here due to COVID-19 economic conditions ignores the fact that the Commission approved that 25 basis point increase during a major economic crisis (the 2008 Great Recession).[177]

E. Other Parties' Equity Cost Rate Recommendations and Principal Areas of Dispute

Following the Settlement, the OCA is the only party proposing an alternative capital structure and ROE. The Company has addressed OCA's contentions, above. After adjustments to Mr. Rothschild's ROE analyses based on Ms. Bulkley's adjustments, Mr. Rothschild's DCF and CAPM analyses would result in an ROE range of 10.62% to 11.15%, which is consistent with Ms. Bulkley's recommendation and much higher than Mr. Rothschild's recommendation.[178] The Commission should reject the OCA's totally inadequate proposed ROE.

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[175] PAWC St. 13, p. 75.
[176] OCA St. 3, pp. 75-81; OCA St. 3-R, p. 14.
[177] PAWC St. 13-R, p. 110.
[178] PAWC St. 13-R, pp. 101-102.

X. REGIONALIZATION AND CONSOLIDATION SURCHARGE

PAWC sought Commission approval of its proposed RCS pursuant to Section 1330(b)(2) to address regulatory lag by permitting PAWC to recover, between base rate cases, shortfalls due to the acquisition of municipal water or wastewater systems pursuant to Section 1329.[179] Specifically, during the period between rate cases, the cumulative shortfall from these acquisitions can degrade PAWC's return on and of rate base and recovery of expenses to a significant degree. PAWC has no control over these shortfalls; they are largely a function of the rates set by the prior owner, which PAWC is legally required to adopt when acquiring each system. Moreover, PAWC cannot recover past shortfalls in a Section 1308 proceeding.[180] By addressing this regulatory lag, the RCS would further the public policy behind Section 1329 – promoting the regionalization and consolidation of water and wastewater systems by facilitating the sale of municipal utility systems to capable public utilities.

Under the terms of the Settlement, PAWC agreed that it would not pursue its request for a RCS at this time. If the ALJ and the Commission adopt the Settlement as submitted, there is no need to address this issue. If, however, the ALJ or the Commission modifies or rejects the Settlement, the ALJ and the Commission should then consider and adopt the RCS without modification for the reasons set forth in detail in Appendix C.

XI. PENSION/OPEB TRACKER

Pursuant to Section 1330(b), the Company proposed to establish trackers and deferral accounts to reflect differences between the annual pension and OPEB expense reflected in its base rates and its actual annual pension and OPEB expenses. The differences (positive or negative) would be reflected in rates in a subsequent base rate case. The factors that cause those

[179] PAWC St. 1, p. 6.
[180] PAWC St. 8, p. 21.

differences (investment performance and workforce demographic) are outside the control of the Company. Establishing a tracker and deferral mechanism would assure that the Company recovers only its actual expenses, neither more nor less.[181] While PAWC firmly believes that its proposal is reasonable and would yield substantial benefits for customers, it has agreed to withdraw its tracker/deferral proposal if the Settlement is approved.[182]

XII. RATE STRUCTURE AND RATE DESIGN

A. Introduction

Every rate proceeding consists of two parts. First, the overall revenues to which a utility is entitled must be determined. The second part of the process must determine how much of the total revenue requirement each rate class should bear. The allocation of revenue responsibility can be one of the more contentious parts of a rate proceeding because it is a "zero sum" exercise among the non-utility parties – any revenue responsibility not borne by a particular rate class must be borne by one or more other rate classes. While cost of service studies are the touchstone for reasonable allocations of revenue responsibility among rate classes,[183] the Commission has often stated that cost of service and revenue allocation analyses must reflect the exercise of judgment and are as much a matter of art as of science.[184] For that reason, Pennsylvania appellate courts have repeatedly held that the Commission, in crafting a reasonable rate structure, is "invested with a flexible limit of judgment" and may establish just, reasonable and non-discriminatory rates within a "range of reasonableness."[185]

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[181] PAWC St. 1, pp. 25-30.
[182] If the Settlement is not approved, the Commission should approve the pension/OPEB tracker for the reasons set forth above and discussed in more detail in the Company's Proposed Findings of Fact (Appendix C).
[183] *See Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (Pa. Cmwlth. 2006).
[184] *See Pa. P.U.C. v. Philadelphia Suburban Water Co.*, 75 Pa. P.U.C. 391, 440 (1991).
[185] *U.S. Steel Corp. v. Pa. P.U.C.*, 37 Pa. Cmwlth., 173, 187, 390 A.2d 865, 872 (1978).

B. Cost of Service Study

PAWC submitted eight separate cost of service studies, two for its water operations and six for its wastewater operations.[186] Constance E. Heppenstall of Gannett Fleming, Inc. prepared PAWC's cost of service studies for PAWC's water operations using the base-extra capacity method for allocating costs to customer classifications.[187] This method is described in the American Water Works Association's Water Rates Manual and has been accepted by the PUC as the appropriate methodology for determining class costs of service.[188] For sanitary sewer system ("SSS") operations, Ms. Heppenstall's cost of service studies were prepared using the functional cost allocation methodology described in "Financing and Charges for Wastewater Systems," Manual of Practice No. 27, published by the Water Environment Federation.[189] That allocation methodology was modified to determine the incremental cost related to handling storm water for PAWC's CSS operations.[190] Schedule A of PAWC Exhibits CEH-1R and 12-B through 12-H summarizes the results of the applicable cost of service study and compares the costs of service by class to revenues under existing and proposed rates.

Only the OCA's witness, Mr. Rubin, offered any criticism of the Company's cost of service studies. Mr. Rubin disagrees with the way Ms. Heppenstall allocated stormwater-related costs to rate classes in the cost of studies performed for PAWC's CSS operations.[191] Ms. Heppenstall allocated those costs in the same manner as infiltration and inflow costs in a sanitary

[186] PAWC St. 12, pp. 3-5.
[187] *Id.*, pp. 9-17; PAWC Exhs. CEH-1R (Water Operations Excluding Steelton) and 12-B (Steelton).
[188] PAWC St. 12, pp. 8-9. The base-extra capacity method is described on pages 3-4 of PAWC Exhs. CEH-1R and 12-B.
[189] *Id.*, pp. 19-24; PAWC Exhs. 12-C (SSS Wastewater Operations Excluding Sadsbury and Exeter); 12-D (Sadsbury) and 12-E (Exeter).
[190] PAWC St. 12, pp. 25-36; PAWC Exhs. 12-F (Scranton); 12-G (McKeesport) and 12-H (Kane).
[191] OCA St. 1, pp. 46-50. Mr. Rubin also proposed three revisions to the cost of service study for PAWC's water operations excluding Steelton (*id.*, pp. 37-40), which Ms. Heppenstall accepted in her rebuttal testimony. PAWC St. 12-R, pp. 2-3; PAWC Exhs. CEH-1R (Exhibit 12-A Revised).

sewer system.[192] Mr. Rubin proposed an "across-the-board" increase to the existing rates in PAWC's CSS rate areas and recommended that the Company propose a separate stormwater rate in its next base rate case.[193] In support of those proposals, he contends that collecting stormwater costs based on water consumption or number of customers, regardless of a property's actual contribution stormwater inflow, is unfair and inconsistent with cost causation principles.

C. Rate Design Proposals

In designing rates for the Company's water rate zones, Ms. Heppenstall followed the following guidelines:

> (1) increase customer charges to recover, at a minimum, the direct customer costs; (2) increase private fire protection charges to recover the cost of service; (3) increase the public fire hydrant charges in all rate zones that are below 25% of the public fire protection cost of service to a rate that is 25% of that cost of service; and (4) increase rates by customer classification in a manner that moves the revenues recovered from each classification toward the indicated cost of service where possible including the combined wastewater revenue requirement and Water Steelton Operations revenue requirement allocated to water operations.[194]

PAWC's proposed water and wastewater rates set forth in its initial filing are summarized on Schedule H of PAWC Exhibit CEH-1R and Schedule F of PAWC Exhibit 12-C, respectively.

As previously noted, all issues pertaining to rate structure, rate design and the allocation of any revenue increase granted by the Commission have been resolved among the Joint Petitioners. The key elements of the revenue allocation and rate design effected by the Settlement Rates are summarized below.

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[192] PAWC St. 12, pp. 25-35.
[193] OCA St. 1, pp. 41-49, pp. 49-50, 87-89 and 91-93. Mr. Rubin's rate design proposals are addressed in Sections XII.D. and XII.F. below.
[194] *Id.*, pp. 36-37.

Water Rate Structure and Rate Design[195]

- **Service Charges**. Under the Settlement Rates, the Rate Zone 1 service charge for residential, commercial and municipal customers with 5/8-inch meters will be $17.00 per month (2021) and $17.50 per month (2022) in lieu of the $18.00 (RY1) and $18.50 (RY2) service charges proposed by the Company (PAWC St. 12, pp. 37-39).[196] The 5/8-inch service charge for the Industrial class in Rate Zone 1 will be $25.40, and the same percentage increase will be applied for all other meter sizes.

- **Consolidation of Rate Zones**. The metered rates for all classes of customers in Rate Zone 2 have been consolidated with Rate Zone 1 under the Settlement Rates.

- **Rate Design Changes to Facilitate Future Rate Zone Consolidation.** The Company currently has separate Rate Zone 3 (McEwensville), Rate Zone 4 (Turbotville) and Rate Zone 5 (Steelton). Under the Settlement, the service charges for the residential, commercial and municipal customer classes in Rate Zones 3 and 4 have been equalized with Rate Zone 1. The service charges for the residential, commercial and municipal customer classes in Rate Zone 5 have been increased to move closer to Rate Zone 1 service charges. Additionally, usage charges for the residential class in Rate Zone 4 have been equalized with Rate Zone 1 in 2022.

Wastewater Rate Structure and Rate Design[197]

- **Consolidation of Rate Zones**. Under the Settlement Rates, existing wastewater Rate Zone 4 and future Rate Zone 11 will be consolidated with wastewater Rate Zone 1.

- **Service Charges**. Under the Settlement Rates, Rate Zones 1, 2, 4, 6, 8, and 9 service charges for the residential class will be $11.00 per month and the service charge for non-residential classes in Rate Zones 1, 2, 6 and 9 will be $27.50 per equivalent dwelling unit.

The Settlement Rates make appropriate progress in moving all classes closer to their cost of service consistent with well-accepted ratemaking principles. In addition, the revenue allocation under the Settlement Rates is within the range proposed by witnesses for the Joint Petitioners who represent an array of customer interests.[198] Accordingly, the Settlement Rates

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[195] Joint Petition, ¶70, Appendix A (Water Tariff) and Appendix C (Proof of Revenues).
[196] The direct customer costs identified in Ms. Heppenstall's cost of service study ($17.06 (2021) and $17.50 (2022) per month for a 5/8-in meter) – which no party disputes – support the proposed customer charges under the Settlement. *See* PAWC St. 12-R, p. 7.
[197] Joint Petition, ¶71, Appendix B (Wastewater Tariff) and Appendix C (Proof of Revenues).
[198] *See* Joint Petition, Statement A (PAWC), pp. 34-35 and Statement B (I&E), pp. 15-16; see also AK Steel Statement in Support, p. 1; PAWLUG Statement in Support, pp. 3-4.

fairly and reasonably allocate the increase in water and wastewater revenues among PAWC's customer rate classes and are in the public interest. In light of the Settlement, only rate design issues that remain contested by parties that have not joined the Settlement are discussed here.

D. Allocation of Wastewater Revenue Requirement to Water Operations

OSBA witness Kalcic and OCA witness Rubin took issue with PAWC's proposal to use Section 1311(c)[199] to mitigate the impact of revenue increases on wastewater customers by recovering a portion of the Company's wastewater revenue requirement from its total water and wastewater customer base.[200] Under the Settlement Rates, only $29.3 million (Phase-In Step 1) and $21.5 million (Phase-In Step 2) of wastewater revenue requirement – not the amounts of $32.9 million (RY1) and $35.2 million (RY2) PAWC originally proposed – would be allocated to its water operations.[201]

Allocating wastewater revenue requirement to water operations as provided in the Settlement is in the public interest. While the Section 1311(c) allocation plays an important role in mitigating the increases to the Company's 76,000 wastewater customers, it has a modest effect on water customers' bills – representing an increase of approximately eight cents per day ($2.40 per month) to an average residential customer.[202] In addition, the Settlement Rates make reasonable movement toward the system average rate of return by the various customer classes as measured by PAWC's cost of service studies.

OCA's argument that the PUC should require PAWC's investors bear approximately $16.7 million of the PUC-approved fair value purchase price of four Section 1329 acquisitions is

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[199] Section 1311(c) provides, in relevant part, that "the commission, when setting base rates, after notice and an opportunity to be heard, may allocate a portion of the wastewater revenue requirement to the combined water and wastewater customer base if in the public interest."
[200] OSBA St. 1 p. 16; OCA St. 1, pp. 64-70. I&E witness Kubas recommended changes in PAWC's wastewater rate design proposal that were resolved among the Joint Petitioners by the Settlement.
[201] *See* Joint Petition, ¶ 71. e.
[202] *See id.*, Statement A, p. 7.

without merit for three principal reasons.[203] First, for the reasons explained in Section IX above, that recommendation would violate shareholders' constitutional right to a fair return on and of their investment. Second, the PUC should, for fair market value acquisitions, read Section 1311(c) together with Section 1329. The public interest is served if 1311(c) is used to make it economically feasible for a public utility to acquire a municipal wastewater system in a way that mitigates rate increases on customers of the acquired system without an unreasonable impact on the rates of water customers. Third, the OCA erroneously contends that Section 1311(c) assumes that the rate base for a wastewater system will be set based on original cost less depreciation.[204] To the contrary, Section 1311(c) assumes that rate base will be established in the manner provided by law – original cost less depreciation, for traditional Section 1102 acquisitions and a purchase price that is within the fair market valuations for Section 1329 acquisitions.[205]

E. Allocation of Steelton Revenue Requirement to Other Water Operations

In its initial filing, PAWC proposed a 40% rate increase over RY1 and RY2 for Steelton water customers consistent with its commitment in the Steelton acquisition settlement to propose rates equal to the lower of cost of service or 1.4 times existing Steelton rates in the first post closing base rate case.[206] As shown on Appendix B approximately $1.3 million (Step 1) and $1.2 million (Step 2) of the Steelton revenue requirement would be allocated to the cost of service of the Company's other water operations under the Settlement in lieu of the $1.8 million (RY1) and $1.4 million (RY2) PAWC originally proposed.

[203] OCA St. 1, pp. 69-70.
[204] *Id.*, p. 64.
[205] 66 Pa.C.S. § 1329(c)(i) ("The ratemaking rate base of the selling utility shall be incorporated into the rate base of (i) the acquiring public utility during the acquiring public utility's next base rate case") (emphasis added).
[206] PAWC St. 4, pp. 32-33; PAWC St. 12, p. 37.

While the OCA agreed with PAWC's proposed 40% increase in rates for Steelton customers, Mr. Rubin asserted that the PAWC investors should contribute $850,000 toward the unrecovered revenue requirement for Steelton, based on his view that Section 1329 acquisitions have "inflated plant values."[207] This argument should be rejected for the same reasons discussed in Section XII.D. above.

F. Separate Stormwater Rate

I&E witness Sakaya and OCA witness Rubin recommended that PAWC propose separate stormwater rates for the Company's CSS operations in its next base rate case. Both witnesses recognized that it was not feasible to establish a stormwater rate for the Company's combined sewer systems in this case.[208] The Company submitted extensive testimony explaining that the data collection and analysis needed to determine the feasibility of implementing a stormwater rate and reviewing possible approaches to doing so would take more time than I&E's and the OCA's witnesses had anticipated.[209] As part of the Settlement, PAWC has agreed to propose potential recovery and rate methodology options for stormwater costs of combined sewer systems in its next base rate filing. The proposals will include an analysis of the recovery of such stormwater costs through various methodologies including forms of separate stormwater rates, and a description of the customers to whom the rates would apply.[210] Consequently, the Company believes that the Settlement also addresses Mr. Rubin's concerns regarding the allocation of stormwater costs in PAWC's CSS rate zones.

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[207] OCA St. 1 pp. 66, 70. As part of his opposition to the MYRP, Mr. Rubin argued that the full 40% rate increase should apply beginning in 2021, resulting in a revenue increase of $589,679 for PAWC's Steelton water operations. *Id.*, pp. 70, 84-85. If the PUC does not approve the Settlement, PAWC should be permitted to implement its MYRP and the 40% rate increases for Steelton customers should be spread out over RY1 and RY2.
[208] *See* I&E St. 5, pp. 15-16; OCA St. 1, p. 50.
[209] PAWC St. 3-R, pp. 4-8; PAWC St. 4-R, pp. 25-27.
[210] Joint Petition, ¶71 e.

XIII. RECOMMENDATIONS FOR ACTIONS RELATED TO THE COVID-19 EMERGENCY

Promptly following the advent of the COVID-19 emergency and in response to the Commission's March 13th Emergency Order,[211] the Company took several temporary measures to maintain affordability and ensure customers were able to continue to utilize the water and wastewater services provided by the Company.[212] The Company appreciates the numerous recommendations it received from CAUSE-PA and others to ensure that (i) customers continue to receive heightened protections during and immediately following the emergency period, and (ii) the Company is able to continue providing safe and reliable water and wastewater services throughout its service territory in the Commonwealth.

CAUSE-PA witness Miller suggested several actions the Company could undertake to defray the economic impact of the COVID-19 emergency..[213] The Company has agreed to undertake almost all of the actions suggested except Mr. Miller's recommendation that the Company conduct a third-party needs assessment to assess low-income communities within the Company's service territory.[214] The Company will, among other things, (1) waive reconnection fees for customers at or below 200% of the Federal Poverty Level ("FPL") for one year from the date of the final Order in this proceeding; (2) waive the good faith payment requirement for PAWC's H2O Help to Others Hardship Fund for one year from the date of the final Order in this proceeding; (3) permit customers to self-certify income for purposes of qualifying for the

[211] Emergency Order, Docket No. M-2020-3019244 (March 13, 2020).
[212] PAWC St. 1, p. 48.
[213] CAUSE-PA St. 1, pp. 44-45; 67-71.
[214] *See* Joint Petition ¶¶ 34-39; CEO Stip. ¶¶1-5; PAWC St. 17-R, p. 24. *See also Petition of Pennsylvania-American Water Company for Authorization to Defer, and Record as Regulatory Assets for Future Recovery: (1) Incremental Expenses Incurred Because of the Effects of the COVID-19 Emergency; (2) Revenue Reductions Attributable to the Effects of the COVID-19 Emergency; and (3)Carrying Charges on the Amounts Deferred* (October 15, 2020).

PAWC's H2O Help to Others Hardship Fund until the earlier of (i) March 31, 2021; or (ii) the date on which Governor Wolf's March 6, 2020 COVID-19 emergency Executive Order is rescinded; (4) expand community outreach to communities in need within its service territory, including developing a community outreach plan to target communities significantly impacted as a result of the COVID-19 emergency; (5) increase its annual contribution to its H2O Help to Others Program from its current levels of $400,000 for water operations and $50,000 for wastewater operations to $500,000 and $100,000, respectively; and (6) increase its efforts to identify new sources of H2O grant funding.

The third-party needs assessment suggested by Mr. Miller would require several analyses in varied locations given the demographic characteristics of the Company's service territory, which would be time-consuming and a significant cost to ratepayers.[215] PAWC has already demonstrated its willingness to provide its customers with reasonable assistance, but a third-party needs assessment is not necessary, is not necessitated by any Commission requirement, and its scope, cost, and complexity outweigh the potential benefits such assessment might yield.

XIV. LOW-INCOME CUSTOMER ASSISTANCE

The Company's multi-pronged low-income program primarily consists of (i) an 85% reduction in the Company's service charge for water customers at or below 150% of the FPL; (ii) a 20% bill discount for wastewater customers at or below 150% of the FPL; (iii) grants of up to $500 per year for water and wastewater customers; and (iv) the provision of water-saving device kits and educational programming.[216]

In consideration of the increasing economic pressure on low-income customers, which has become even more acute during the COVID-19 emergency, the Company proposed granting

[215] PAWC St. 1-R, 82.
[216] PAWC St. 1, p. 44; PAWC St. 4, p. 46; PAWC St. 17-R, p. 3.

low-income customers an additional 10% discount off the volumetric portion of their water bill, and increasing the 20% total wastewater bill discount to 30%.[217] Various parties proposed modifications to the Company's low-income program.

A. H2O Discount Program Design

OCA witness Colton and CAUSE-PA witness Miller recommended that PAWC incorporate an arrearage management program in its low-income bill discount program. Mr. Colton stated that PAWC should be required to present its proposed arrearage program to the Commission for review and approval within six months after a final order in this proceeding.[218] Mr. Miller recommended that the arrearage program should be implemented no later than the effective date of new rates in this proceeding.[219] To assist its customers to the maximum extent possible, PAWC has agreed that, no later than six months after a final order in this proceeding, it will present an arrearage management plan to the PUC for review and approval, which will be designed through a multi-party stakeholder consultative process, with the participation of the Commission's Bureau of Consumer Services ("BCS").[220]

Messrs. Colton and Miller recommended that PAWC offer tiered discounts rather than a flat percentage. Mr. Colton proposed that the Company retain its current discount for customers at or above 100% of the FPL, and provide modified discounts to customers between 50% to 100% of the FPL, and below 50% of the FPL.[221] Mr. Miller recommended that the Company adjust its discount to target affordability at 2%, 2.5%, and 3% of household incomes for those customers below 50% of the FPL, between 50% and 100% of the FPL, and between 100% to

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[217] PAWC St. 4, pp. 46-47.
[218] OCA St. 4, pp. 4, 29-30, 34-39.
[219] CAUSE-PA. St. 1, p. 63.
[220] CEO Stip. ¶ 11.
[221] OCA St. 4, pp. 4, 24-25.

150% of the FPL, respectively.[222] CEO witness Brady recommended that the Company increase its low-income discount for water service to 90% of the service charge and 15% of the usage charge.[223]

The Company is unable to implement a tiered discount program. As described by PAWC witness Everette, the Company does not currently have the information that would be needed to accurately incorporate a tiered bill discount into its bill analysis. The Company does not have a mechanism in place to ask participants to update their income information and at this time, does not maintain adequate information to categorize customers into tiers.[224] While Mr. Colton and Mr. Miller have expressed a preference for a tiered discount, that is all it is – a preference – and neither has demonstrated that the Company's current discount mechanism is not adequate or reasonable.

B. Hardship Fund

CEO witness Brady recommended that PAWC increase its annual contribution to its Dollar Energy Hardship fund (i.e., the H2O Help to Others hardship grant program) from $400,000 to $500,000.[225] While utility payments to the fund are voluntary shareholder contributions and the Commission cannot order a utility to increase its contributions to the fund, the Company recognizes the importance, especially during the COVID-emergency, of ensuring that its grant programs are well funded. The Company has committed to increasing its annual contribution to the H2O Help to Others grant program from its current level of $400,000 to $500,000 for water operations and from $50,000 to $100,000 for wastewater operations.[226]

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[222] CAUSE-PA St. 1, p. 63.
[223] CEO St. 1, p. 7.
[224] PAWC St. 4-R, p. 15.
[225] CEO St. 1, p. 7.
[226] Joint Petition ¶ 38; CEO Stip. ¶ 5.

C. Low-Income Customer Outreach, Data Collection and Reporting

OCA witness Colton recommended that the Commission direct the Company to budget $50,000 to hire an expert consultant to develop, within 12 months of a final Order in this proceeding, a "grass roots, boots-on-the-ground" outreach plan to identify and enroll eligible low-income customers in the Company's bill discount program.[227]

Mr. Colton's recommendation should be rejected. The Company already has extensive outreach to its customers and the communities it serves through participation in consumer education and local community events, Dollar Energy Fund outreach, and the Company's extensive work with and through community-based organizations.[228] The Company directly communicates with customers on a regular basis through bill inserts, email campaigns, and social media. Customers can also freely communicate with the Company by phone and obtain low-income program information from the Company's website or through the Commission. Moreover, the Company maintains a dedicated internal position responsible for customer outreach and communications relative to its low-income programs.[229] Mr. Colton has not established why an outside consultant would be able to perform any of the aforementioned activities to any greater degree of success than the Company. The Company is committed to enhancing and expanding its low-income outreach, but requiring the Company to spend $50,000 on an outside consultant would be duplicative and a waste of Company resources.

The Company, however, has accepted several of Mr. Miller's recommendations for data collection, outreach, and reporting[230] and has committed to (1) expand community outreach to communities in need within its service territory; (2) enhance its training materials and call

[227] OCA St. 4, pp. 4, 68-69.
[228] PAWC St. 17-R, p. 3.
[229] *Id.*, pp. 4, 8.
[230] *See* CAUSE-PA St. 1, pp. 51-52.

scripts; (3) within ninety days of a final Order in this proceeding, establish a low-income advisory group; and (4) develop a process for program data collection and reporting to better count low income customers.[231]

D. Comprehensive Universal Service Plan

CAUSE-PA witness Miller recommended that the Company be instructed to file a Petition with the Commission for review and approval of a Universal Service Plan ("USP") for the H2O program within one year of the effective day of rates in this proceeding, and then file for approval of a revised USP every five years thereafter, consistent with requirements for regulated electric and gas utilities.[232]

Mr. Miller's recommendation elevates form over substance. He acknowledges that the Company has policies and procedure related to its low income programs, but asserts that all of its materials should be combined into a USP so that the information is "in one place" and more easily accessible.[233] The Company already maintains its low income program information in an easily accessible manner, and has already committed in this proceeding to enhancing its low income programs, data collection, reporting, and outreach. The experience of the Commonwealth's electric and gas utilities has shown that USPs typically evolve over time after extensive Commission consideration of different approaches and the evaluation of stakeholder collaboratives.[234] As agreed to in the Joint Petition and CEO Stip., the Company's low-income advisory group will convene following the conclusion of this proceeding. The more prudent path, if the Commission determines a USP is necessary, would be for the Company and

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[231] *See* Joint Petition ¶¶ 37, 41, 43, 48; CEO Stip. ¶¶ 7, 9, 10.
[232] CAUSE-PA St. 1, pp. 48-49.
[233] *Id.*, p. 48.
[234] PAWC St. 14-R, p. 33.

stakeholders to further refine the Company's low-income programs through the efforts of the low-income advisory group and to initiate a USP proceeding at a later time.

E. Winter Shut-Off Moratorium

CAUSE-PA witness Miller recommended that the Company (1) begin to track its low income customers who are protected from termination as a result of the winter moratorium and (2) extend the protection from termination offered pursuant to the winter moratorium not only to customers using water for heating but rather to all of the Company's water and wastewater customers with household incomes at or below 250% of the FPL.[235]

The Company agreed to begin tracking low-income customers protected from winter moratorium termination as provided for under 52 Pa. Code §§ 56.100(a) and 56.251.[236] However, there is no support in the Code or the Commission's rules or regulations for requiring the Company to extend the winter moratorium to all water and wastewater customers with household incomes at or below 250% of the FPL. Section 1406(e)(1) prohibits electric and natural gas utilities from terminating service to customers with household incomes at or below 250% of the FPL between November 30 and April 1. The Commission, by regulation, extended the statutory winter moratorium from electric and natural gas utilities to water distribution utilities providing heat related services to customers (between December 1 and March 31).[237] Neither the General Assembly nor the Commission sought to apply the winter moratorium to all water and wastewater customers. Thus, Mr. Miller's recommendation should be rejected.

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[235] CAUSE-PA St. 1, pp. 66-67.
[236] Joint Petition ¶ 45.
[237] *See* 52 Pa. Code § 56.100(a).

XV. SERVICE QUALITY AND CUSTOMER SERVICE ISSUES

A. Customer Performance Service Standards

Ms. Alexander incorrectly states that PAWC does not maintain performance standards for many essential performance areas. She then proposes that, as a condition for approval of *any* rate increase, and prior to considering any MYRP in the future, the Company be required to meet arbitrary performance standards, none of which are required by law or Commission rule. Ms. Alexander also states that "there are a variety of options" to "link PAWC's return on equity or future rate increases to compliance with these performance standards."[238]

The performance standards proposed by Ms. Alexander and the suggested result of not achieving such standards should be rejected. None of the standards suggested by Ms. Alexander are based on Commission requirements. Rather, they are based on a mixture of the Company's current performance metrics, "Pennsylvania typical performance" (for which no support is provided), "improvement required" (according to Ms. Alexander) and "PAWC objective."[239] These are arbitrary metrics that are devoid of any reasonable support.

Furthermore, although the Company proposed a MYRP in this proceeding pursuant to Act 58, the Company has not proposed or in any way requested performance-based rates. The Commission should not impose alternative rate mechanisms that were not a part of the Company's original petition. If Ms. Alexander's proposal were to be adopted, the Company could summarily be denied a rate increase (even outside the context of a MYRP) for a failure to achieve Ms. Alexander's recommended performance standards. Beyond being arbitrary and capricious and beyond the scope of Act 58, such a denial would be tantamount to single-issue ratemaking and therefore impermissible.

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[238] OCA St. 5, pp. 29, 30-31.
[239] *Id. See also* OCA St. 5SR, p. 6.

B. Call Centers

OCA witness Alexander recommended that the Company be required to take steps to improve the monthly performance of its call centers, which would, in part, require the Company to comply with the proposed performance standards discussed in the preceding Section.[240] Ms. Alexander's suggestions should be rejected.

Ms. Alexander's critique of the Company's customer service center ("CSC") is rooted in her unsupported belief that the CSC overall does not provide satisfactory support to the Company's customers and that, in particular, the CSC call centers in Kentucky and Tennessee, which are operated by third-parties, do not adhere to Pennsylvania requirements and do not receive adequate oversight. As explained by PAWC witness Pallas, the CSC does provide satisfactory service to Company customers. Lower performance metrics in 2018 were due to abnormally severe weather conditions, which is beyond the Company's control. Ms. Alexander's suggestion that staffing is inadequate is incorrect. The CSC cannot be staffed for the "worst case" scenario at all times – this would lead to unnecessarily high costs, which customers would ultimately bear the brunt of. Instead, the CSC's call centers are appropriately staffed to provide appropriate service over the year that balance's customer's needs and cost levels.[241]

Ms. Alexander also recommended that the Company be required to audit its third-party operated CSC call centers to ensure that they are complying with Pennsylvania requirements. This recommendation should also be rejected. As Mr. Pallas explained, the third-party call centers must comply with all Pennsylvania requirements; its CSRs receive the same Pennsylvania-specific training as the CSRs located in the CSC's Service Company-operated call

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[240] *See* OCA St. 5, pp. 6-7; 29-30; OCA St. 5SR, p. 4, 6.
[241] PAWC St. 18-R, pp. 5-6, 9.

centers; and the performance levels of the third-party call centers are already monitored on a *daily* basis – far more intense monitoring than the periodic auditing Ms. Alexander proposed.[242]

C. Customer Complaints

OCA witness Alexander recommended that the Company be required to submit a quarterly analysis to BCS of the Company's complaint trends, identifying the root cause of complaints, and documenting the steps taken by the Company to respond to such complaints.[243] This recommendation should be rejected. PAWC's satisfactory performance with respect to customer complaints and its customer satisfaction results do not merit enhanced quarterly reporting requirements. The Company already regularly interacts with BCS. BCS monitors trends in customer complaints and will directly communicate to utility companies.[244] On a quarterly basis, BCS issues Utility Consumer Activities Report and Evaluation ("UCARE"), which provides, for each major utility reporting, an assessment of the utility's performance. The Company also participates in the BCS' Customer & Utility Resolution Effort ("CURE") program to resolve customer complaints after they have been filed with BCS.[245] BCS has ample opportunity to monitor PAWC performance and PAWC meets with BCS annually. If BCS requires additional information, it can certainly request it from the Company.

D. Customer Satisfaction Surveys

OCA witness Alexander recommended that the Company develop a program of routine customer satisfaction surveys that conform to the methodology utilized by Pennsylvania's electric and gas utilities.[246] The form Ms. Alexander seeks to impose on the Company is the result of laws and related rulemakings that are completely inapplicable to water and wastewater

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[242] *Id.*, pp. 11-15; Tr. 805:2-806:10.
[243] OCA St. 5, p. 28.
[244] PAWC St. No. 17-R, p. 12.
[245] PAWC St. 17-R, p. 12.
[246] OCA St. 5, p. 28.

utilities, namely the Electricity Generation Customer Choice and Competition Act of 1996 and the Natural Gas and Competition Act of 1999. However, Ms. Alexander acknowledges that the Company already conducts routine customer satisfaction surveys of customers and measures customer satisfaction.[247] She provides no basis for the assertion that the Company should be required to conform its processes and procedures to those of natural gas and electric utilities. The Company's existing surveys provide a clear measurement of customer satisfaction and the Company should be permitted to utilize such surveys going forward.

E. Training on Termination of Service

In response to the recommendation of OCA witness Alexander,[248] PAWC agreed to review and revise its training documents to include additional scenarios and written instructions for: (1) an allegation of a pending dispute or complaint; and (2) and allegation of a PFA Order or a court order that shows evidence of domestic violence.[249]

Ms. Alexander also recommended training PAWC field representatives "to detect conditions that would result in danger or harm to those at the residence at the time of termination of essential water service, which in some cases, is relied upon for home heating."[250] Additional training is not required, and Ms. Alexander's recommendation should be rejected. The Company already complies with winter shutoff requirements, thus, Ms. Alexander's recommendation, as it pertains to home heating, is baseless.[251] Moreover, the Company explained that "if field representatives encounter circumstances not specifically identified in the law or PUC regulation, they are instructed to contact their supervisor and/or business performance team members before

[247] *Id.*, p. 18.
[248] OCA St. 5, pp. 17-18.
[249] PAWC St. 17-R, p. 14.
[250] OCA St. 5, p. 18.
[251] *See* Section X, E, *infra*.

terminating service," and Ms. Alexander stated that she agrees with this overall approach.[252] It would be impracticable and unreasonable to require the Company to train its field representatives to detect any condition that could result in danger or harm from termination.

F. Pressure Surveys and Pressures

OCA witness Fought contends that if PAWC has to provide static pressure higher than 125 psi to serve some customers in order to serve other customers, it should install a pressure reducer on the customer service line or provide an insurance policy covering service line damage.[253] That recommendation should be rejected. PAWC is permitted to "undertake to furnish a service which does not comply with [normal operating pressures between 25 psi and 125 psi] where compliance with such specifications would prevent it from furnishing service to any other customer or where called for by good engineering practices."[254] PAWC only provides service in excess of 125 psi within the strict parameters of the Code. The Company's distribution system traverses challenging terrain and elevation changes. There are circumstances, such as providing service to high elevation areas, that sometimes demand providing service in excess of 125 psi. In such cases, the Company's PUC-approved tariff states that *the customer* is required to install and maintain a pressure regulator on its service line, not the Company.[255]

G. Main Extensions

OCA witness Fought recommended that the Company consider funding main extensions for two areas in Washington County pursuant to Rule 27.1(F) of the Company's water tariff– "Area 1" comprised of 51 Ullom Road, Washington, PA and "Area 2" comprised of 216

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[252] *See* PAWC Response to OCA-XX-III-4; OCA St. 5, p. 11.
[253] OCA St. 6, p. 6.
[254] 52 Pa. Code § 65.6.
[255] PAWC St. 3-R, pp. 11-12.

Campbell Road and 9812 Old Steubinville Pike, Bulger, PA.[256] As explained by Company witness Aiton, the Company should be required to undertake the suggested main extensions.[257] First, the projects would serve only one or two customers requiring the Company to spend many times more than the amount the Company is required to expend pursuant to Tariff Rule 27.1. Second, the proposed main extensions may result in water quality issues due to the long water age in a main that would serve only one or two customers. Third, 9812 Steubenville Pike is not even located within the Company's certificated service territory.[258]

H. Sewage Backups

The limitation of liability section of the Company's tariff provides that, among other things, the Company shall not be liable to customers or third parties for losses or damages involving an "act of God."[259] OCA witness Fought asserted that the Company should define what storm frequencies constitute an "Act of God" and an "Act of Nature" for which the Company would not be liable.[260]

It would be unreasonable for the Commission to require the Company to define the exact frequency of storms that would constitute and "Act of God" or an "Act of Nature." The frequency and severity of storms and other acts of nature and God are unknowable to the Company – they are considered "acts of God" because they are beyond the realm of foreseeability or control. The Company cannot make an arbitrary determination on what frequency of storms would qualify as an "Act of God." Events, such as storms, must be

[256] OCA St. 6, pp. 6-8.
[257] PAWC St. 3-R, pp. 12-15.
[258] *Id.*
[259] *See* Water Tariff Section 15; Wastewater Tariff Section Q.
[260] OCA St. 6SR, p. 5.

evaluated on an individual basis as to whether they constitute an "Act of God" or "Act of Nature." Therefore, the Mr. Fought's recommendation should be rejected.

I. Tenant Issues and Protections

CAUSE-PA witness Vitek recommended enhancements to assure compliance with the Discontinuation of Services to Leased Premises Act ("DSLPA").[261] PAWC addressed CAUSE-PA's concerns and agreed that the Company will take the actions relative to tenant issues and protections described in the Joint Petition and Stipulation between the Company and CAUSE-PA.[262]

Mr. Vitek has testified regarding additional protections afforded by the Water Services Act ("WSA")[263] and Utility Services Tenants Rights Act ("USTRA")[264] when service is terminate customers of unregulated sewer authorities[265] and questioned reliance upon those authorities to ensure that proper termination notices are provided. The Company has a process in place to ensure that municipal authorities comply with WSA termination requirements.[266] The Company is also in the process of revising its procedures for municipal shut-off requests under the WSA, and those revisions will include processes to ensure compliance with the USTRA.[267]

J. Language Access

CAUSE-PA witness Vitek made several recommendations related to the Company's policies, procedures, and training requirements related to language access.[268] The Company has addressed CAUSE-PA's concerns with respect to language access and agreed that the Company

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[261] *See* CAUSE-PA St. 2, pp. 27-29.
[262] *See* Joint Petition ¶ 49; CAUSE-PA Stip. (DSLPA) ¶¶1-9.
[263] *See* 53 P.S. § 3102.101 *et seq.*
[264] *See* 53 P.S. § 502(c), 68 Pa.C.S. § 399.3-7.
[265] CAUSE-PA St. 2, pp. 17-19.
[266] PAWC St. 17-R, pp. 34-35.
[267] *Id.*, pp. 35-36.
[268] *See* CAUSE-PA St. 2, pp. 27-29.

will take the actions relative to language access described in the Joint Petition and Stipulation between the Company and CAUSE-PA.[269]

K. Protection for Victims of Domestic Violence

CAUSE-PA witness Lewis recommended changes to PAWC's policies, procedures, and training materials concerning victims of domestic violence.[270] The Company has addressed CAUSE-PA's concerns and agrees to take the actions relative to victims of domestic violence described in the Joint Petition and Stipulation between the Company and CAUSE-PA.[271]

XVI. TARIFF CHANGES

A. Limitation of Liability

PAWC proposes updating its limitation of liability tariff provisions to: (1) harmonize its water and wastewater tariffs;[272] (2) limit liability for interruptions in service comparable to provisions in other companies' water tariffs consistent with the PUC's Statement of Policy at 52 Pa. Code § 69.87 ("Policy Statement"); (3) clarify that PAWC is not an insurer and has not undertaken to prevent injury from fire;[273] and (4) add a paragraph on customer indemnification based on similar provisions in other utilities' tariffs.[274] A number of the provisions PAWC proposes adding to its tariffs are based on provisions in other utilities' PUC-approved tariffs.[275] No party has challenged these aspects of PAWC's proposal.

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[269] Joint Petition¶ 57; CAUSE-PA Stip. ¶¶1-8.
[270] *See* CAUSE-PA St. 3, pp. 33-36.
[271] Joint Petition ¶¶ 58-67; CAUSE-PA Stip. ¶¶ 9-20.
[272] PAWC St. 4-R p. 18.
[273] This provision is intended to prevent parties from suing PAWC based on claims that water supply or water pressure is inadequate to fight a fire and is similar to PUC-approved language in the tariff of York Water (Rule 7.1).
[274] *See* UGI Utilities – Electric Division, Pa. PUC Tariff No. 6, Rule 1-d: "The Customer will indemnify, defend and hold harmless the Company against all claims, demands, costs or expenses for loss, damage or injury to person or property in any manner either directly or indirectly connected with or growing out of the supply or use of electric by the Customer at or on the Customer's side of the point of delivery."
[275] *See* 52 Pa. Code § 69.87.

While the OCA opposes PAWC's proposal *in its entirety*, its opposition focuses solely on a proposed liability limitation for some negligent, reckless or intentional acts.[276] OCA's opposition should be rejected. First, the OCA's position is inconsistent with the Policy Statement adopted by the PUC that rejected a prohibition on limiting utilities' liability for injury or damages from negligent or intentional torts.[277] Second, the OCA overlooks Rule 15.1 of PAWC's existing PUC-approved water tariff, which already includes a broad limitation of liability for negligent acts. Finally, OCA erroneously contends that PAWC's proposal would "eliminate any liability" for PAWC.[278] PAWC's proposal is not an exculpatory clause. It would limit liability only in specific situations beyond PAWC's control (e.g., acts of God, damage caused by a break of the customer's service line or other facility not owned by the Company, or damage caused by a plumber or developer). Limiting PAWC's liability in these situations is just and reasonable. Other Commission-approved tariffs limit the utility's liability for damage caused by negligent, reckless and intentional acts.[279] PAWC's proposal improves upon these tariffs because it is both more specific and more clearly stated.

PAWC's proposal protects PAWC and its customers from plaintiffs seeking "deep pockets" that are increasingly targeting utilities. Without limitations on liability, utilities could be financially stressed by exorbitant damage claims, thus jeopardizing the continued provision of

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[276] OCA St. 5, pp. 22-23; OCA St. 5-R, pp. 18-19.

[277] *Tariff Provisions That Limit the Liability of Utilities for Injury or Damage as a Result of Negligence or Intentional Torts*, Docket Nos. M-00960882, M-00981209 (Order entered November 19, 1998). *See Behrend v. Bell Tele. Co.*, 242 Pa. Super. 47, 363 A.2d 1152 (1976), vacated on other grounds, 473 Pa. 320, 374 A.2d 536 (1977).

[278] OCA St. 5, p. 22.

[279] *See,* SWPA Supplement No. 46 to: Water-PA PUC No. 7, Section 30(A)(5) ("The Company shall not be liable *for any damage or inconvenience suffered by the customer, or for any claim* for interruption in service, lessening of supply inadequate pressure, poor quality of water, or any other cause.") (emphasis added); Aqua Water-PA PUC No. 2, Rule 51 ("Furthermore, the Company shall not be liable *in any action* where the loss or damage involves an act of God or does not involve a duty of the Company, ….") (emphasis added); PPL Electric Utilities Corporation Supplement No. 42, Electric Pa. PUC No. 201, Rule 4.F ("The Company uses reasonable diligence to preserve continuity of service, but in the event of interruption or curtailment of service, Company shall not be subject *to any liability, penalty or payment* for or on account of any such interruption or curtailment nor shall the application of the rate schedule to the regular billing period be affected.") (emphasis added).

essential public services.[280] Utilities should be protected by reasonable limitations of liability because of the critical public services that they provide.

B. Chapter 56 Customer Protections to Be Included in Tariff

Per OCA witness Alexander's recommendation,[281] PAWC has agreed to revise its tariff to specifically address (1) the rights of certain vulnerable customers with a PFA; (2) the right to a payment arrangement with criteria for eligibility; (3) the obligation to issue a written denial of service that includes reasons for denial or payment of prior debt and dispute process; and (4) termination notice procedures.[282]

C. Align Tariff Language on Low-Income Customers with Actual Practice

Per OCA witness Colton's recommendation, PAWC will delete from its tariffs the following: "To remain eligible for this rate, such customer must continually make timely payments on the discounted bills."[283]

XVII. CONCLUSION

For the foregoing reasons, the Commission's investigation at Docket Nos. R-2020-3019369 and R-2020-3019371 should be terminated, the various Complaints consolidated therewith dismissed, and the proposed rates, terms and conditions under the Joint

[280] PAWC St. 4-R, p. 23.
[281] OCA St. 5, p. 29; OCA St. 5-SR, p. 11.
[282] Joint Petition, ¶ 69.
[283] CEO Stip. ¶ 6.

Petition for Non-Unanimous Settlement filed on October 30, 2020 permitted to become effective without modification.

Respectfully submitted,

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Dated: November 10, 2020

Counsel for Pennsylvania-American Water Company

Appendix A

Pennsylvania American Water Company
Docket No. R-2020-3019369
Main Brief Tables I - VI

Summary Tables for Water Operations
Rate Year 1 (2021)

Summary Water Operations
Rate Year 1 - 2021

TABLE I
Pennsylvania-American Water Company - Water Operations
INCOME SUMMARY
R-2020-3019369, R-2020-3019371

	Rate Year 1 Pro Forma Present Rates (1)	Company Adjustments (1)	Rate Year 1 Present Rates (Revised) (1)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues
	$	$	$	$	$	$	$
Operating Revenue	642,715,434	46,568,746	689,284,180	0	689,284,180	(0)	689,284,180
Expenses:							
O & M Expense	213,500,249	561,153	214,061,402	0	214,061,402	0	214,061,402
Depreciation	137,269,990	0	137,269,990	0	137,269,990	0	137,269,990
Taxes, Other	11,774,937	294,136	12,069,073	0	12,069,073	0	12,069,073
Income Taxes:							
State	15,635,703	4,565,465	20,201,168	0	20,201,168	0	20,201,168
Federal	30,409,917	8,638,327	39,048,244	0	39,048,244	0	39,048,244
Total Expenses	408,590,795	14,059,081	422,649,876	0	422,649,876	0	422,649,876
Net Inc. Available for Return	234,124,639	32,509,665	266,634,304	0	266,634,304	(0)	266,634,304
Rate Base	3,328,096,740	671,096	3,328,767,836	0	3,328,767,836		3,328,767,836
Rate of Return	7.03%		8.01%				8.01%

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. This table summarizes the Company's proposed increase for water operations.

Summary Water Operations
Rate Year 1 - 2021

TABLE I(A)
Pennsylvania-American Water Company - Water Operations
RATE OF RETURN
R-2020-3019369, R-2020-3019371

	Structure	Cost	After-Tax Weighted Cost		Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt			1.95266000%			
Long-term Debt	43.88%	4.45%	1.95266000%			1.95%
Short-term Debt	0.00%	0.00%	0.00000000%			
Preferred Stock	0.06%	8.80%	0.00528000%		0.711079	0.01%
Common Equity	56.06%	10.80%	6.05448000%		0.711079	8.51%
	100.00%		8.01000000%	(1) & (2)		10.47%
Pre-Tax Interest Coverage	5.36					
After-Tax Interest Coverage	4.10					

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. This table summarizes the Company's proposed Rate of Return for water operations.

(2) The Company rounded the Total After-Tax Weighted Cost to 4 decimals places. The formula in the original presentation did not round the Total After-Tax Weighted Cost.

Summary Water Operations
Rate Year 1 - 2021

TABLE I(B)
Pennsylvania-American Water Company - Water Operations
REVENUE FACTOR
R-2020-3019369, R-2020-3019371

100%	1.00000000
Less:	
Uncollectible Accounts Factor (*)	0.01205000
PUC, OCA, OSBA Assessment Factors (*)	0.00636194
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	0.98158806
State Income Tax Rate (*)	0.09990000
Effective State Income Tax Rate	0.09806065
Factor After Local and State Taxes	0.88352741
Federal Income Tax Rate (*)	0.21000000
Effective Federal Income Tax Rate	0.18554076
Revenue Factor (100% - Effective Tax Rates)	0.69798665

(*) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. This table summarizes the proposed Revenue Factors for water operations.

Summary Water Operations
Rate Year 1 - 2021

TABLE II
Pennsylvania-American Water Company - Water Operations
SUMMARY OF ADJUSTMENTS
R-2020-3019369, R-2020-3019371

Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	$	$	$	$	$	$	$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	(IV!B38)						
Taxes (Table V)	(V!P34)						
O & M (Table VI)	(VI!B42)						
REVENUES:							
		0				0	0
EXPENSES:							
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
TAXES:							
Interest Synchronization (Table III)						0	0
TOTALS	0	0	0	0	0	0	0

Summary Water Operations
Rate Year 1 - 2021

TABLE III
Pennsylvania-American Water Company - Water Operations
INTEREST SYNCHRONIZATION
R-2020-3019369, R-2020-3019371

	Amount $
Company Rate Base Claim	3,328,767,836
ALJ Rate Base Adjustments	0
ALJ Rate Base	3,328,767,836
Weighted Cost of Debt	1.95266000%
ALJ Interest Expense	64,999,518
Company Claim (1)	64,999,518
Total ALJ Adjustment	(0)
Company Adjustment	0
Net ALJ Interest Adjustment	(0)
State Income Tax Rate	9.99%
State Income Tax Adjustment	0
Net ALJ Interest Adjustment	(0)
State Income Tax Adjustment	0
Net ALJ Adjustment for F.I.T.	(0)
Federal Income Tax Rate	21.00%
Federal Income Tax Adjustment	0

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. The company claim represents the interest expense for water operations.

Summary Water Operations
Rate Year 1 - 2021

TABLE IV
Pennsylvania-American Water Company - Water Operations
CASH WORKING CAPITAL - Interest and Dividends
R-2020-3019369, R-2020-3019371

Accrued Interest			Preferred Stock Dividends		
	Long-Term Debt	Short-Term Debt			
Company Rate Base Claim	$3,328,767,836	$3,328,767,836	Company Rate Base Claim	$3,328,767,836	
ALJ Rate Base Adjustments	$0	$0	ALJ Rate Base Adjustments	$0	
ALJ Rate Base	$3,328,767,836	$3,328,767,836	ALJ Rate Base	$3,328,767,836	
Weighted Cost of Debt	1.95266000%	0.00%	Weighted Cost Pref. Stock	0.00528000%	
ALJ Annual Interest Exp.	$64,999,518	$0	ALJ Preferred Dividends	$175,759	
Average Revenue Lag Days	50.7	50.7	Average Revenue Lag Days	50.7	
Average Expense Lag Days	92.4	15.2	Average Expense Lag Days	46.2	
Net Lag Days	-41.7	35.5	Net Lag Days	4.5	
Working Capital Adjustment					
ALJ Daily Interest Exp.	$178,081	$0	ALJ Daily Dividends	$482	
Net Lag Days	-41.7	35.5	Net Lag Days	4.5	
ALJ Working Capital	($7,425,978)	$0		$2,169	(2)
Company Claim (1)	($7,425,978)	$0	Company Claim (1)	$2,169	
ALJ Adjustment	$0	$0		$0	
Total Interest & Dividend Adj.	$0				

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. The company claim represents Cash Working Capital for Interest and Dividends for water operations.

(2) The Company did not round when calculating the Cash Working Capital for Preferred Stock Dividends. The formula in the original presentation rounded to zero decimals places.

Summary Water Operations
Rate Year 1 - 2021

TABLE V
Pennsylvania-American Water Company - Water Operations
CASH WORKING CAPITAL -TAXES
R-2020-3019369, R-2020-3019371

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense (2)	Net Lead/ Lag Days	Accrued Tax Adjustment
PUC Assessment	$4,298,695	$0	$4,298,695	$0	$4,298,695	$11,777.25	197.20	$2,322,473
Public Utility Realty	$2,257,502	$0	$2,257,502		$2,257,502	$6,184.94	66.50	$411,298
Capital Stock Tax	$1,181,966	$0	$1,181,966		$1,181,966	$3,238.26	99.10	$320,912
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
State Income Tax	$20,201,168	$0	$20,201,168	$0	$20,201,168	$55,345.67	14.20	$785,909
Federal Income Tax	$39,281,836	$0	$39,281,836	$0	$39,281,836	$107,621.47	14.20	$1,528,225
	$67,221,167	$0	$67,221,167	$0	$67,221,167			

ALJ Allowance	5,368,817
Company Claim (1)	5,368,817
ALJ Adjustment	0

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. The company claim represents Cash Working Capital for Taxes for water operations.

(2) The Company did not use rounding for the Daily Expense calculation. The formula in the original presentation rounded using 2 decimals places.

TABLE VI
Pennsylvania-American Water Company - Water Operations
CASH WORKING CAPITAL -- O & M EXPENSE
R-2020-3019369, R-2020-3019371

Description	Company Pro forma F.T.Y. Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	$56,729,265	$0	$56,729,265	12.14	$688,693,277
Chemicals	$10,925,126	$0	$10,925,126	48.81	$533,255,395
Group Insurance	$9,830,044	$0	$9,830,044	10.92	$107,344,080
Insurance, Other	$13,234,764	$0	$13,234,764	-53.43	($707,133,414)
Labor	$59,953,664	$0	$59,953,664	12.14	$727,837,484
Leased Equip./Rent	$390,060	$0	$390,060	8.05	$3,139,983
Leased Vehicles	$2,493,006	$0	$2,493,006	39.23	$97,800,625
Miscellaneous	$31,845,549	$0	$31,845,549	31.01	$987,530,466
Natural Gas	$994,248	$0	$994,248	31.80	$31,617,086
Power	$11,853,747	$0	$11,853,747	24.97	$295,988,063
Purchased Water	$2,965,191	$0	$2,965,191	34.69	$102,862,480
Telephone	$3,801,059	$0	$3,801,059	8.71	$33,107,224
Waste Disposal	$1,830,364	$0	$1,830,364	45.65	$83,556,117
Post Retirement Benefits	($2,932,430)	$0	($2,932,430)	0.00	$0
Pensions	$387,203	$0	$387,203	13.14	$5,087,847
	$204,300,860	$0	$204,300,860	14.60	$2,990,686,713

ALJ Average Revenue Lag	50.7	
Less: ALJ Avg. Expense Lag	14.7 (2)	
Net Difference	36.0	Days
ALJ Pro forma O & M Expense per Day	$559,728	
ALJ CWC for O & M	$20,173,654	
Less: Company Claim (1)	$20,173,654	
ALJ Adjustment	$0	

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. The company claim represents Cash Working Capital for O&M Expense for water operations.

(2) Company Water Operations weighted average expense lag used in calculation. The formula in the original presentation rounded average Lag Days to 1 decimal place.

Pennsylvania American Water Company
Docket No. R-2020-3019369
Main Brief Tables I - VI

Summary Tables for Water Operations
Rate Year 2 (2022)

Summary Water Operations
Rate Year 2 - 2022

TABLE I
Pennsylvania-American Water Company - Water Operations
INCOME SUMMARY
R-2020-3019369, R-2020-3019371

	Rate Year 2 Pro Forma Present Rates (1) (2)	Company Adjustments (1)	Rate Year 2 Pro Forma Proposed Rates (1)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues
	$	$	$	$	$	$	$
Operating Revenue	684,624,120	39,784,261	724,408,381	0	724,408,381	(0)	724,408,380
Expenses:							
O & M Expense	219,674,835	479,400	220,154,235	0	220,154,235	0	220,154,235
Depreciation	140,565,211	0	140,565,211	0	140,565,211	0	140,565,211
Taxes, Other	12,424,440	251,206	12,675,646	0	12,675,646	0	12,675,646
Income Taxes:							
State	17,196,267	3,900,366	21,096,633	0	21,096,633	0	21,096,633
Federal	35,912,444	7,379,891	43,292,335	0	43,292,335	0	43,292,335
Total Expenses	425,773,196	12,010,863	437,784,059	0	437,784,059	0	437,784,059
Net Inc. Available for Return	258,850,924	27,773,398	286,624,322	0	286,624,322	(0)	286,624,321
Rate Base	3,604,764,058	573,318	3,605,337,376	0	3,605,337,376		3,605,337,376
Rate of Return	7.18%		7.95%				7.95%

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. This table summarizes the Company's proposed increase for water operations.

(2) Rate Year 2 present rate revenues are based on the Company's proposed Rate Year 1 rates

Summary Water Operations
Rate Year 2 - 2022

TABLE I(A)
Pennsylvania-American Water Company - Water Operations
RATE OF RETURN
R-2020-3019369, R-2020-3019371

	Structure	Cost	After-Tax Weighted Cost		Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt			1.91046800%			
Long-term Debt	44.02%	4.34%	1.91046800%			1.91%
Short-term Debt	0.00%	0.00%	0.00000000%			
Preferred Stock	0.01%	9.70%	0.00097000%		0.711079	0.00%
Common Equity	55.97%	10.80%	6.04196200%		0.711079	8.50%
	100.00%		7.95000000%	(1) & (2)		10.41%
Pre-Tax Interest Coverage	5.45					
After-Tax Interest Coverage	4.16					

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. This table summarizes the Company's proposed Rate of Return for water operations.

(2) The Company rounded the Total After-Tax Weighted Cost to 4 decimals places. The formula in the original presentation did not round the Total After-Tax Weighted Cost.

Summary Water Operations
Rate Year 2 - 2022

TABLE I(B)
Pennsylvania-American Water Company - Water Operations
REVENUE FACTOR
R-2020-3019369, R-2020-3019371

100%	1.00000000
Less:	
Uncollectible Accounts Factor (*)	0.01205000
PUC, OCA, OSBA Assessment Factors (*)	0.00636194
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	0.98158806
State Income Tax Rate (*)	0.09990000
Effective State Income Tax Rate	0.09806065
Factor After Local and State Taxes	0.88352741
Federal Income Tax Rate (*)	0.21000000
Effective Federal Income Tax Rate	0.18554076
Revenue Factor (100% - Effective Tax Rates)	0.69798665

(*) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. This table summarizes the proposed Revenue Factors for water operations.

Summary Water Operations
Rate Year 2 - 2022

TABLE II
Pennsylvania-American Water Company - Water Operations
SUMMARY OF ADJUSTMENTS
R-2020-3019369, R-2020-3019371

Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	$	$	$	$	$	$	$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	(IV!B38)						
Taxes (Table V)	(V!P34)						
O & M (Table VI)	(VI!B42)						
REVENUES:							
		0				0	0
EXPENSES:							
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
TAXES:							
Interest Synchronization (Table III)						0	0
TOTALS	0	0	0	0	0	0	0

Summary Water Operations
Rate Year 2 - 2022

TABLE III
Pennsylvania-American Water Company - Water Operations
INTEREST SYNCHRONIZATION
R-2020-3019369, R-2020-3019371

	Amount $
Company Rate Base Claim	3,605,337,376
ALJ Rate Base Adjustments	0
ALJ Rate Base	3,605,337,376
Weighted Cost of Debt	1.91046800%
ALJ Interest Expense	68,878,817
Company Claim (1)	68,878,817
Total ALJ Adjustment	0
Company Adjustment	0
Net ALJ Interest Adjustment	0
State Income Tax Rate	9.99%
State Income Tax Adjustment	0
Net ALJ Interest Adjustment	0
State Income Tax Adjustment	0
Net ALJ Adjustment for F.I.T.	0
Federal Income Tax Rate	21.00%
Federal Income Tax Adjustment	0

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. The company claim represents the interest expense for water operations.

TABLE IV
Pennsylvania-American Water Company - Water Operations
CASH WORKING CAPITAL - Interest and Dividends
R-2020-3019369, R-2020-3019371

Accrued Interest	Long-Term Debt	Short-Term Debt	Preferred Stock Dividends	
Company Rate Base Claim	$3,605,337,376	$3,605,337,376	Company Rate Base Claim	$3,605,337,376
ALJ Rate Base Adjustments	$0	$0	ALJ Rate Base Adjustments	$0
ALJ Rate Base	$3,605,337,376	$3,605,337,376	ALJ Rate Base	$3,605,337,376
Weighted Cost of Debt	1.91046800%	0.00%	Weighted Cost Pref. Stock	0.00097000%
ALJ Annual Interest Exp.	$68,878,817	$0	ALJ Preferred Dividends	$34,972
Average Revenue Lag Days	50.7	50.7	Average Revenue Lag Days	50.7
Average Expense Lag Days	92.4	15.2	Average Expense Lag Days	46.2
Net Lag Days	-41.7	35.5	Net Lag Days	4.5
Working Capital Adjustment				
ALJ Daily Interest Exp.	$188,709	$0	ALJ Daily Dividends	$96
Net Lag Days	-41.7	35.5	Net Lag Days	4.5
ALJ Working Capital	($7,869,165)	$0		$432 (2)
Company Claim (1)	($7,869,165)	$0	Company Claim (1)	$432
ALJ Adjustment	$0	$0		$0
Total Interest & Dividend Adj.	$0			

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. The company claim represents Cash Working Capital for Interest and Dividends for water operations.

(2) The Company did not round when calculating the Cash Working Capital for Preferred Stock Dividends. The formula in the original presentation rounded to zero decimals places.

Summary Water Operations
Rate Year 2 - 2022

TABLE V
Pennsylvania-American Water Company - Water Operations
CASH WORKING CAPITAL -TAXES
R-2020-3019369, R-2020-3019371

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense (2)	Net Lead/ Lag Days	Accrued Tax Adjustment
PUC Assessment	$4,519,784	$0	$4,519,784	$0	$4,519,784	$12,382.97	197.20	$2,441,922
Public Utility Realty	$2,400,772	$0	$2,400,772		$2,400,772	$6,577.46	66.50	$437,401
Local Property Tax	$1,255,790	$0	$1,255,790		$1,255,790	$3,440.52	99.10	$340,956
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
State Income Tax	$21,096,633	$0	$21,096,633	$0	$21,096,633	$57,798.99	14.20	$820,745
Federal Income Tax	$43,525,927	$0	$43,525,927	$0	$43,525,927	$119,249.12	14.20	$1,693,337
	$72,798,907	$0	$72,798,907	$0	$72,798,907			

ALJ Allowance	5,734,361
Company Claim (1)	5,734,361
ALJ Adjustment	0

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. The company claim represents Cash Working Capital for Taxes for water operations.

(2) The Company did not use rounding for the Daily Expense calculation. The formula in the original presentation rounded using 2 decimals places.

Summary Water Operations
Rate Year 2 - 2022

TABLE VI
Pennsylvania-American Water Company - Water Operations
CASH WORKING CAPITAL -- O & M EXPENSE
R-2020-3019369, R-2020-3019371

Description	Company Pro forma F.T.Y. Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	$57,910,509	$0	$57,910,509	12.14	$703,033,579
Chemicals	$11,572,170	$0	$11,572,170	48.81	$564,837,613
Group Insurance	$10,470,433	$0	$10,470,433	10.92	$114,337,128
Insurance, Other	$13,498,283	$0	$13,498,283	-53.43	($721,213,261)
Labor	$62,367,064	$0	$62,367,064	12.14	$757,136,160
Leased Equip./Rent	$390,060	$0	$390,060	8.05	$3,139,983
Leased Vehicles	$2,591,816	$0	$2,591,816	39.23	$101,676,942
Miscellaneous	$32,480,124	$0	$32,480,124	31.01	$1,007,208,660
Natural Gas	$994,248	$0	$994,248	31.80	$31,617,086
Power	$11,537,738	$0	$11,537,738	24.97	$288,097,318
Purchased Water	$3,024,495	$0	$3,024,495	34.69	$104,919,730
Telephone	$3,801,059	$0	$3,801,059	8.71	$33,107,224
Waste Disposal	$1,830,364	$0	$1,830,364	45.65	$83,556,117
Post Retirement Benefits	($2,932,430)	$0	($2,932,430)	0.00	$0
Pensions	$387,203	$0	$387,203	13.14	$5,087,847
	$209,923,137	$0	$209,923,137	14.70	$3,076,542,126

ALJ Average Revenue Lag	50.7	
Less: ALJ Avg. Expense Lag	14.7 (2)	
Net Difference	36.0	Days
ALJ Pro forma O & M Expense per Day	$575,132	
ALJ CWC for O & M	$20,728,064	
Less: Company Claim (1)	$20,728,064	
ALJ Adjustment	$0	

(1) The Company filed two separate revenue requirements for its water operations: Water Operations Excluding Steelton and Steelton Water Operations. The company claim represents Cash Working Capital for O&M Expense for water operations.

(2) Company Water Operations weighted average expense lag used in calculation. The formula in the original presentation rounded average Lag Days to 1 decimal place.

Pennsylvania American Water Company
Docket No. R-2020-3019371
Main Brief Tables I - VI

Summary Tables for Wastewater Operations
Rate Year 1 (2021)

Summary Wastewater Operations
Rate Year 1 - 2021

TABLE I
Pennsylvania-American Water Company - Wastewater Operations
INCOME SUMMARY
R-2020-3019369, R-2020-3019371

	Rate Year 1 Pro Forma Present Rates (1)	Company Adjustments (1)	Rate Year 1 Pro Forma Proposed Rates (1)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues
	$	$	$	$	$	$	$
Operating Revenue	73,100,482	46,041,574	119,142,056	0	119,142,056	0	119,142,056
Expenses:							
O & M Expense	29,722,366	554,802	30,277,168	0	30,277,168	0	30,277,168
Depreciation	25,906,184	0	25,906,184	0	25,906,184	0	25,906,184
Taxes, Other	3,275,790	287,901	3,563,691	0	3,563,691	0	3,563,691
Income Taxes:	0	0					
State	(1,158,135)	4,513,855	3,355,720	0	3,355,720	0	3,355,720
Federal	(791,710)	8,540,675	7,748,965	0	7,748,965	0	7,748,965
Total Expenses	56,954,495	13,897,233	70,851,728	0	70,851,728	0	70,851,728
Net Inc. Available for Return	16,145,987	32,144,341	48,290,328	0	48,290,328	0	48,290,328
Rate Base	646,571,881	751,548	647,323,429	0	647,323,429		647,323,429
Rate of Return	2.50%		7.46%				7.46%

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. This table summarizes the Company's proposed increase for wastewater operations.

Summary Wastewater Operations
Rate Year 1 - 2021

TABLE I(A)
Pennsylvania-American Water Company - Wastewater Operations
RATE OF RETURN
R-2020-3019369, R-2020-3019371

	Structure		Cost	After-Tax Weighted Cost		Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt				2.01365000%			
Long-term Debt	39.44%		4.45%	1.75508000%			1.76%
Wastewater Specific Long Term Debt	10.14%	(3)	2.55%	0.25857000%			
Preferred Stock	0.05%		8.80%	0.00440000%		0.711079	0.01%
Common Equity	50.37%		10.80%	5.43996000%		0.711079	7.65%
	100.00%			7.46000000%	(1) & (2)		9.42%
Pre-Tax Interest Coverage	5.36						
After-Tax Interest Coverage	4.25						

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. This table summarizes the Company's proposed Rate of Return for wastewater operations.

(2) The Company rounded the Total After-Tax Weighted Cost to 4 decimals places. The formula in the original presentation did not round the Total After-Tax Weighted Cost.

(3) The Company included Wastewater Specific Long Term Debt in the Capital Structure. Short-Term Debt was originally included in this presentation.

Summary Wastewater Operations
Rate Year 1 - 2021

TABLE I(B)
Pennsylvania-American Water Company - Wastewater Operations
REVENUE FACTOR
R-2020-3019369, R-2020-3019371

100%	1.00000000
Less:	
Uncollectible Accounts Factor (*)	0.01205000
PUC, OCA, OSBA Assessment Factors (*)	0.00636194
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	0.98158806
State Income Tax Rate (*)	0.09990000
Effective State Income Tax Rate	0.09806065
Factor After Local and State Taxes	0.88352741
Federal Income Tax Rate (*)	0.21000000
Effective Federal Income Tax Rate	0.18554076
Revenue Factor (100% - Effective Tax Rates)	0.69798665

(*) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. This table summarizes the proposed Revenue Factors for wastewater operations.

Summary Wastewater Operations
Rate Year 1 - 2021

TABLE II
Pennsylvania-American Water Company - Wastewater Operations
SUMMARY OF ADJUSTMENTS
R-2020-3019369, R-2020-3019371

Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	$	$	$	$	$	$	$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	(IV!B38)						
Taxes (Table V)	(V!P34)						
O & M (Table VI)	(VI!B42)						
REVENUES:							
		0				0	0
EXPENSES:							
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
TAXES:							
Interest Synchronization (Table III)						0	0
TOTALS	0	0	0	0	0	0	0

Summary Wastewater Operations
Rate Year 1 - 2021

TABLE III
Pennsylvania-American Water Company - Wastewater Operations
INTEREST SYNCHRONIZATION
R-2020-3019369, R-2020-3019371

	Amount $
Company Rate Base Claim	647,323,429
ALJ Rate Base Adjustments	0
ALJ Rate Base	647,323,429
Weighted Cost of Debt	2.01365000%
ALJ Interest Expense	13,034,828
Company Claim (1)	13,034,828
Total ALJ Adjustment	(0)
Company Adjustment	0
Net ALJ Interest Adjustment	(0)
State Income Tax Rate	9.99%
State Income Tax Adjustment	0
Net ALJ Interest Adjustment	(0)
State Income Tax Adjustment	0
Net ALJ Adjustment for F.I.T.	(0)
Federal Income Tax Rate	21.00%
Federal Income Tax Adjustment	0

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. The company claim represents the interest expense for wastewater operations.

Summary Wastewater Operations
Rate Year 1 - 2021

TABLE IV
Pennsylvania-American Water Company - Wastewater Operations
CASH WORKING CAPITAL - Interest and Dividends
R-2020-3019369, R-2020-3019371

Accrued Interest	Long-Term Debt		Wastewater Specific Long Term Debt		Preferred Stock Dividends		
Company Rate Base Claim	$647,323,429		$647,323,429		Company Rate Base Claim	$647,323,429	
ALJ Rate Base Adjustments	$0		$0		ALJ Rate Base Adjustments	$0	
ALJ Rate Base	$647,323,429		$647,323,429		ALJ Rate Base	$647,323,429	
Weighted Cost of Debt	1.75508000%		0.26%		Weighted Cost Pref. Stock	0.00440000%	
ALJ Annual Interest Exp.	$11,361,044		$1,673,784		ALJ Preferred Dividends	$28,482	
Average Revenue Lag Days	50.7		50.7		Average Revenue Lag Days	50.7	
Average Expense Lag Days	92.4		92.4		Average Expense Lag Days	46.2	
Net Lag Days	-41.7		-41.7		Net Lag Days	4.5	
Working Capital Adjustment							
ALJ Daily Interest Exp.	$31,127	(2)	$4,587	(2)	ALJ Daily Dividends	$77	(2)
Net Lag Days	-41.7		-41.7		Net Lag Days	4.5	
ALJ Working Capital	($1,297,997)		($191,278)			$347	(3)
Company Claim (1)	($1,297,997)		($191,278)		Company Claim (1)	$347	
ALJ Adjustment	$0		$0			$0	
Total Interest & Dividend Adj.	$0						

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. The company claim represents Cash Working Capital for Interest and Dividends for wastewater operations.

(2) Company Wastewater Operations weighted average Daily Interest expense used in calculation for all components of Cash Working Capital for Interest and Dividends. The formula in the original presentation rounded to zero decimals the ALJ Annual Interest Expense average divided by 365.

(3) The Company did not round when calculating the Cash Working Capital for Preferred Stock Dividends. The formula in the original presentation rounded to zero decimals places.

Summary Wastewater Operations
Rate Year 1 - 2021

TABLE V
Pennsylvania-American Water Company - Wastewater Operations
CASH WORKING CAPITAL -TAXES
R-2020-3019369, R-2020-3019371

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense (2)	Net Lead/ Lag Days	Accrued Tax Adjustment
PUC Assessment	$739,671	$0	$739,671	$0	$739,671	$2,026.50	213.10	$431,846
Public Utility Realty	$0	$0	$0		$0	$0.00	61.00	$0
Local Property Tax	$2,068,163	$0	$2,068,163		$2,068,163	$5,666.20	115.30	$653,313
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
State Income Tax	$3,355,720	$0	$3,355,720	$0	$3,355,720	$9,193.75	21.40	$196,748
Federal Income Tax	$7,748,965	$0	$7,748,965	$0	$7,748,965	$21,230.04	13.70	$290,852
	$13,912,519	$0	$13,912,519	$0	$13,912,519			

ALJ Allowance	1,572,759
Company Claim (1)	1,572,759
ALJ Adjustment	0

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. The company claim represents Cash Working Capital for Taxes for wastewater operations.

(2) The Company did not use rounding for the Daily Expense calculation. The formula in the original presentation rounded using 2 decimals places.

Summary Wastewater Operations
Rate Year 1 - 2021

TABLE VI
Pennsylvania-American Water Company - Wastewater Operations
CASH WORKING CAPITAL -- O & M EXPENSE
R-2020-3019369, R-2020-3019371

Description	Company Pro forma F.T.Y. Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	$1,403,943	$0	$1,403,943	12.14	$17,043,868
Chemicals	$2,295,477	$0	$2,295,477	48.81	$112,042,238
Group Insurance	$1,891,682	$0	$1,891,682	10.92	$20,657,167
Insurance, Other	$2,195,763	$0	$2,195,763	-53.43	($117,319,617)
Labor	$10,155,089	$0	$10,155,089	12.14	$123,282,775
Leased Equip./Rent	$33,344	$0	$33,344	8.05	$268,419
Leased Vehicles	$514,664	$0	$514,664	39.23	$20,190,269
Miscellaneous	$4,591,475	$0	$4,591,475	31.01	$142,381,653
Natural Gas	$144,923	$0	$144,923	31.80	$4,608,551
Power	$2,783,238	$0	$2,783,238	24.97	$69,497,453
Purchased Water	$0	$0	$0	34.69	$0
Telephone	$289,142	$0	$289,142	8.71	$2,518,427
Waste Disposal	$2,643,780	$0	$2,643,780	45.65	$120,688,551
Post Retirement Benefits	$122,602	$0	$122,602	0.00	$0
Pensions	$445,642	$0	$445,642	13.14	$5,855,736
	$29,510,764	$0	$29,510,764	17.70	$521,715,490

ALJ Average Revenue Lag	50.7	
Less: ALJ Avg. Expense Lag	17.7 (2)	
Net Difference	33.0	Days
ALJ Pro forma O & M Expense per Day	$80,851	
ALJ CWC for O & M	$2,669,314	
Less: Company Claim (1)	$2,669,314	
ALJ Adjustment	$0	

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. The company claim represents Cash Working Capital for O&M Expense for wastewater operations.

(2) Company Water Operations weighted average expense lag used in calculation. The formula in the original presentation rounded average Lag Days to 1 decimal place.

Pennsylvania American Water Company
Docket No. R-2020-3019371
Main Brief Tables I - VI

Summary Tables for Wastewater Operations
Rate Year 2 (2022)

Summary Wastewater Operations
Rate Year 2 - 2022

TABLE I
Pennsylvania-American Water Company - Wastewater Operations
INCOME SUMMARY
R-2020-3019369, R-2020-3019371

	Rate Year 2 Pro Forma Present Rates (1) (2)	Company Adjustments (1)	Rate Year 2 Pro Forma Proposed Rates (1)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues
	$	$	$	$	$	$	$
Operating Revenue	118,432,870	6,756,417	125,189,287	0	125,189,287	0	125,189,287
Expenses:							
O & M Expense	30,953,472	81,415	31,034,887	0	31,034,887	0	31,034,887
Depreciation	27,850,763	0	27,850,763	0	27,850,763	0	27,850,763
Taxes, Other	3,675,434	42,716	3,718,150	0	3,718,150	0	3,718,150
Income Taxes:							
State	2,696,313	662,348	3,358,661	0	3,358,661	0	3,358,661
Federal	7,131,422	1,253,228	8,384,650	0	8,384,650	0	8,384,650
Total Expenses	72,307,404	2,039,707	74,347,111	0	74,347,111	0	74,347,111
Net Inc. Available for Return	46,125,466	4,716,710	50,842,176	0	50,842,176	0	50,842,176
Rate Base	682,334,679	110,641	682,445,320	0	682,445,320		682,445,320
Rate of Return	6.76%		7.45%				7.45%

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. This table summarizes the Company’s proposed increase for wastewater operations.
(2) Rate Year 2 present rate revenues are based on the Company’s proposed Rate Year 1 rates

Summary Wastewater Operations
Rate Year 2 - 2022

TABLE I(A)
Pennsylvania-American Water Company - Wastewater Operations
RATE OF RETURN
R-2020-3019369, R-2020-3019371

	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt			1.97502000%		
Long-term Debt	39.90%	4.34%	1.73166000%		1.73%
Wastewater Specific Long Term Debt	9.36% (3)	2.60%	0.24336000%		
Preferred Stock	0.01%	9.70%	0.00097000%	0.711079	0.00%
Common Equity	50.73%	10.80%	5.47884000%	0.711079	7.70%
	100.00%		7.45000000% (1) & (2)		9.43%
Pre-Tax Interest Coverage	5.45				
After-Tax Interest Coverage	4.30				

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. This table summarizes the Company's proposed Rate of Return for wastewater operations.

(2) The Company rounded the Total After-Tax Weighted Cost to 4 decimals places. The formula in the original presentation did not round the Total After-Tax Weighted Cost.

(3) The Company included Wastewater Specific Long Term Debt in the Capital Structure. Short-Term Debt was originally included in this presentation.

Summary Wastewater Operations
Rate Year 2 - 2022

TABLE I(B)
Pennsylvania-American Water Company - Wastewater Operations
REVENUE FACTOR
R-2020-3019369, R-2020-3019371

100%	1.00000000
Less:	
Uncollectible Accounts Factor (*)	0.01205000
PUC, OCA, OSBA Assessment Factors (*)	0.00636194
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	0.98158806
State Income Tax Rate (*)	0.09990000
Effective State Income Tax Rate	0.09806065
Factor After Local and State Taxes	0.88352741
Federal Income Tax Rate (*)	0.21000000
Effective Federal Income Tax Rate	0.18554076
Revenue Factor (100% - Effective Tax Rates)	0.69798665

(*) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. This table summarizes the proposed Revenue Factors for wastewater operations.

Summary Wastewater Operations
Rate Year 2 - 2022

TABLE II
Pennsylvania-American Water Company - Wastewater Operations
SUMMARY OF ADJUSTMENTS
R-2020-3019369, R-2020-3019371

Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	$	$	$	$	$	$	$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	(IV!B38)						
Taxes (Table V)	(V!P34)						
O & M (Table VI)	(VI!B42)						
REVENUES:							
		0				0	0
EXPENSES:							
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
			0			0	0
TAXES:							
Interest Synchronization (Table III)						0	0
TOTALS	0	0	0	0	0	0	0

Summary Wastewater Operations
Rate Year 2 - 2022

TABLE III
Pennsylvania-American Water Company - Wastewater Operations
INTEREST SYNCHRONIZATION
R-2020-3019369, R-2020-3019371

	Amount $
Company Rate Base Claim	682,445,320
ALJ Rate Base Adjustments	0
ALJ Rate Base	682,445,320
Weighted Cost of Debt	1.97502000%
ALJ Interest Expense	13,478,432
Company Claim (1)	13,478,432
Total ALJ Adjustment	(0)
Company Adjustment	0
Net ALJ Interest Adjustment	(0)
State Income Tax Rate	9.99%
State Income Tax Adjustment	0
Net ALJ Interest Adjustment	(0)
State Income Tax Adjustment	0
Net ALJ Adjustment for F.I.T.	(0)
Federal Income Tax Rate	21.00%
Federal Income Tax Adjustment	0

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. The company claim represents the interest expense for wastewater operations.

Summary Wastewater Operations
Rate Year 2 - 2022

TABLE IV
Pennsylvania-American Water Company - Wastewater Operations
CASH WORKING CAPITAL - Interest and Dividends
R-2020-3019369, R-2020-3019371

Accrued Interest	Long-Term Debt		Wastewater Specific Long Term Debt		Preferred Stock Dividends		
Company Rate Base Claim	$682,445,320		$682,445,320		Company Rate Base Claim	$682,445,320	
ALJ Rate Base Adjustments	$0		$0		ALJ Rate Base Adjustments	$0	
ALJ Rate Base	$682,445,320		$682,445,320		ALJ Rate Base	$682,445,320	
Weighted Cost of Debt	1.73166000%		0.24%		Weighted Cost Pref. Stock	0.00097000%	
ALJ Annual Interest Exp.	$11,817,633		$1,660,799		ALJ Preferred Dividends	$6,620	
Average Revenue Lag Days	50.7		50.7		Average Revenue Lag Days	50.7	
Average Expense Lag Days	92.4		92.4		Average Expense Lag Days	46.2	
Net Lag Days	-41.7		-41.7		Net Lag Days	4.5	
Working Capital Adjustment							
ALJ Daily Interest Exp.	$32,376	(2)	$4,549	(2)	ALJ Daily Dividends	$17	(2)
Net Lag Days	-41.7		-41.7		Net Lag Days	4.5	
ALJ Working Capital	($1,350,080)		($189,693)			$77	(3)
Company Claim (1)	($1,350,080)		($189,693)		Company Claim (1)	$77	
ALJ Adjustment	$0		$0			$0	
Total Interest & Dividend Adj.	$0						

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. The company claim represents Cash Working Capital for Interest and Dividends for wastewater operations.

(2) Company Wastewater Operations weighted average Daily Interest expense used in calculation for all components of Cash Working Capital for Interest and Dividends. The formula in the original presentation rounded to zero decimals the ALJ Annual Interest Expense average divided by 365.

(3) The Company did not round when calculating the Cash Working Capital for Preferred Stock Dividends. The formula in the original presentation rounded to zero decimals places.

TABLE V
Pennsylvania-American Water Company - Wastewater Operations
CASH WORKING CAPITAL -TAXES
R-2020-3019369, R-2020-3019371

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense (2)	Net Lead/ Lag Days	Accrued Tax Adjustment
PUC Assessment	$777,902	$0	$777,902	$0	$777,902	$2,131.24	213.10	$454,167
Public Utility Realty	$0	$0	$0		$0	$0.00	61.00	$0
Local Property Tax	$2,163,004	$0	$2,163,004		$2,163,004	$5,926.04	115.30	$683,272
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
State Income Tax	$3,358,661	$0	$3,358,661	$0	$3,358,661	$9,201.81	21.40	$196,918
Federal Income Tax	$8,384,650	$0	$8,384,650	$0	$8,384,650	$22,971.64	13.70	$314,711
	$14,684,217	$0	$14,684,217	$0	$14,684,217			

ALJ Allowance	1,649,068
Company Claim (1)	1,649,068
ALJ Adjustment	0

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. The company claim represents Cash Working Capital for Taxes for wastewater operations.

(2) The Company did not use rounding for the Daily Expense calculation. The formula in the original presentation rounded using 2 decimals places.

TABLE VI
Pennsylvania-American Water Company - Wastewater Operations
CASH WORKING CAPITAL -- O & M EXPENSE
R-2020-3019369, R-2020-3019371

Description	Company Pro forma F.T.Y. Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	$1,432,990	$0	$1,432,990	12.14	$17,396,502
Chemicals	$2,411,628	$0	$2,411,628	48.81	$117,711,568
Group Insurance	$2,008,497	$0	$2,008,497	10.92	$21,932,787
Insurance, Other	$2,239,483	$0	$2,239,483	-53.43	($119,655,577)
Labor	$10,458,118	$0	$10,458,118	12.14	$126,961,547
Leased Equip./Rent	$33,344	$0	$33,344	8.05	$268,419
Leased Vehicles	$524,755	$0	$524,755	39.23	$20,586,139
Miscellaneous	$5,162,076	$0	$5,162,076	31.01	$160,075,962
Natural Gas	$144,923	$0	$144,923	31.80	$4,608,551
Power	$2,716,859	$0	$2,716,859	24.97	$67,839,969
Purchased Water	$0	$0	$0	34.69	$0
Telephone	$289,142	$0	$289,142	8.71	$2,518,427
Waste Disposal	$2,648,213	$0	$2,648,213	45.65	$120,890,943
Post Retirement Benefits	$122,602	$0	$122,602	0.00	$0
Pensions	$445,642	$0	$445,642	13.14	$5,855,736
	$30,638,272	$0	$30,638,272	17.90	$546,990,973

ALJ Average Revenue Lag	50.7	
Less: ALJ Avg. Expense Lag	17.8 (2)	
Net Difference	32.9	Days
ALJ Pro forma O & M Expense per Day	$83,940	
ALJ CWC for O & M	$2,758,550	
Less: Company Claim (1)	$2,758,550	
ALJ Adjustment	$0	

(1) The Company filed six separate revenue requirements for its wastewater operations: Wastewater Operations Excluding Sadsbury and Exeter; Sadsbury Wastewater Operations, Exeter Wastewater Operations, Scranton Wastewater Operations, McKeesport Wastewater Operations and Kane Wastewater Operations. The company claim represents Cash Working Capital for O&M Expense for wastewater operations.

(2) Company Water Operations weighted average expense lag used in calculation. The formula in the original presentation rounded average Lag Days to 1 decimal place.

Appendix B

PENNSYLVANIA-AMERICAN WATER COMPANY
SUMMARY OF PROOF OF REVENUES - REVISED
R-2020-3019369

	Water Operations Excl. Steelton	Water Steelton Operations	Wastewater SSS Excl. Sadsbury and Exeter Operations	Wastewater SSS Sadsbury Operations	Wastewater SSS Exeter Operations	Wastewater CSS Scranton Operations	Wastewater CSS McKeesport Operations	Wastewater CSS Kane Operations	Total Company
Pro Forma Revenues Under Present Rates	$639,906,857	$2,808,569	$26,594,305	$1,019,246	$8,186,352	$23,467,774	$12,369,059	$1,476,656	$715,828,818
Additional Annual Operating Revenue (Settlement Increase Step 1)	38,882,282	906,375	3,029,628	(382)	1,811,341	3,947,347	1,508,244	459,792	50,544,627
Pro Forma Revenues Under Settlement Rates	$678,789,139	$3,714,944	$29,623,933	$1,018,864	$9,997,693	$27,415,121	$13,877,303	$1,936,448	$766,373,445
Overall % Increase	6.08%	32.27%	11.39%	-0.04%	22.13%	16.82%	12.19%	31.14%	7.06%
Rev. Req. Allocation to Water Excl. Steelton*	($30,627,291)	$1,332,999	$2,993,052	$710,883	$4,712,263	$5,636,035	$14,086,928	$1,155,131	$0

	Water Operations Excl. Steelton	Water Steelton Operations	Wastewater SSS Excl. Sadsbury and Exeter Operations	Wastewater SSS Sadsbury Operations	Wastewater SSS Exeter Operations	Wastewater CSS Scranton Operations	Wastewater CSS McKeesport Operations	Wastewater CSS Kane Operations	Total Company
Pro Forma Revenues Under Present Rates	$639,906,857	$2,808,569	$26,594,305	$1,019,246	$8,186,352	$23,467,774	$12,369,059	$1,476,656	$715,828,818
Additional Annual Operating Revenue (Settlement Increase Step 2)	47,848,056	1,123,810	6,055,643	20,098	3,623,222	7,895,765	3,016,715	919,569	70,502,878
Pro Forma Revenues Under Settlement Rates	$687,754,913	$3,932,379	$32,649,948	$1,039,344	$11,809,574	$31,363,539	$15,385,774	$2,396,225	$786,331,696
Overall % Increase	7.48%	40.01%	22.77%	1.97%	44.26%	33.65%	24.39%	62.27%	9.85%
Rev. Req. Allocation to Water Excl. Steelton*	($22,714,348)	$1,235,909	$836,759	$725,899	$3,306,776	$2,505,411	$13,321,577	$782,017	$0

*Pro Forma Revenues Under Settlement Rates reflect the revenues after the allocation to Water Excluding Steelton.

Appendix C

FINDINGS AND CONCLUSIONS

I. INTRODUCTION AND OVERVIEW

1. Pennsylvania-American Water Company ("PAWC" or the "Company") is a Pennsylvania public utility that furnishes water and wastewater services to approximately 790,000 customers in a service territory covering portions of 36 counties across the Commonwealth.[1]

2. On April 29, 2020, the Company initiated this rate case by filing Supplement No. 19 to Tariff Water – Pa. P.U.C. No. 5 and Supplement No. 19 to Tariff Wastewater – Pa. P.U.C. No. 16 requesting an increase in its total annual operating revenues to become effective June 28, 2020.[2]

3. In its initial filing, the Company sought approval to implement alternative ratemaking mechanisms consisting of its proposed (1) multi-year rate plan ("MYRP") consisting of calendar years 2021 ("RY1") and 2022 ("RY2"); (2) Regionalization and Consolidation Surcharge ("RCS"); and (3) tracker and deferral mechanism for pension and other post-employment benefit ("OPEB") expense ("Pension/OPEB Tracker").[3]

4. PAWC's MYRP included proposed base rate increases of 92.4 million, or 12.9%, in RY1 and $46.2 million, or 5.8% in RY2, or a total increase of $138.6 million.[4] As proposed, the RY2 rates would remain in effect until the conclusion of PAWC's next base rate filing.

5. The Pennsylvania Public Utility Commission ("Commission" or "PUC") initiated an investigation of the Company's existing and proposed rates by Order entered May 21, 2020.

6. Pursuant to Section 1308(d) of the Public Utility Code, the Company's rate request was

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[1] PAWC St. 2, pp. 3-4.
[2] PAWC St. 1, p. 7.
[3] *Id.*, pp. 16-30.
[4] *Id.*, pp. 6-7, 17-28.

suspended by operation of law to January 21, 2021.

7. The Commission granted the request of the Office of Consumer Advocate ("OCA") to extend the effective date of new rates to March 15, 2020 – 45 days beyond the statutory suspension period – but made the extension subject to allowing the Company to recoup revenues that might be lost during that interval under new rates approved by the Commission.

8. Eleven parties in addition to PAWC were granted active party status in this proceeding: the PUC's Bureau of Investigation and Enforcement ("I&E"), the OCA, the Office of Small Business Advocate ("OSBA"), AK Steel Corp. ("AK Steel"), the Commission on Economic Opportunity ("CEO"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), the Pennsylvania-American Water Large Users Group ("PAWLUG"), Jessica and Jeffrey LaBarge, Charles and Jennifer Spryn, Jan K. Vroman, and West Norriton Township.

9. A total of eight public input hearings and two days of evidentiary hearings were held.

10. On October 30, 2020, I&E and PAWLUG ("Joint Petitioners") filed a Joint Petition for Non-Unanimous Settlement of Rate Investigation ("Joint Petition"), which if approved, would resolve all issues among the Joint Petitioners in this rate case.

11. AK Steel joined the settlement embodied in the Joint Petition ("Settlement") on November 2, 2020.

12. Under the terms of the Settlement, if approved, PAWC would: (1) increase its base rates by $70.5 million, which would be phased-in over two years with an annualized credit in each of those years of $10.5 million; and (2) withdraw, in its entirety, the proposed RY2 increase along with its proposed RCS and Pension/OPEB Tracker alternative ratemaking proposals.[5]

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[5] *See* Joint Petition, ¶¶ 23-26, 33 and 72; *see also* Joint Petition, Appendix D (Summary of Settlement Revenue Increase)

13. The Settlement includes extensive commitments from PAWC to furnish COVID-19 relief measures to customers[6] and material enhancements to PAWC's robust low-income assistance programs.[7]

14. Under the Settlement, the Joint Petitioners were able to reach agreement on the allocation among customer classes of the revenue increase under the rates for water and wastewater service delineated in the tariffs provided as Appendices A and B (the "Settlement Rates") and the proof of revenues set forth in Appendix C to the Joint Petition.[8]

II. OVERALL POSITION ON RATE INCREASE

1. OCA witness Scott Rubin has recommended that the PUC deny any increase during the COVID-19 emergency.

2. Mr. Rubin offered the theory that the Commission can set utility rates based on general economic conditions in a "null" zone outside of the traditional ratemaking zone of reasonableness.[9]

3. Mr. Rubin's determination is based on conjecture that an unspecified number of customers might not be able to afford any increase, without considering any test year data or other information that commissions, as required by applicable law, have historically considered in setting rates.[10]

4. Rates should be set so that a utility has a reasonable opportunity to recover prudently incurred costs of providing essential utility service and earn a fair return on its investment in used and useful property.[11]

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[6] Joint Petition ¶¶ 34-39.
[7] *Id.*, ¶¶ 40-44 and 69.
[8] *Id.*, ¶¶ 70-71.
[9] OCA St. 1, p. 10.
[10] OCA St. 1, pp. 10, 22, 29; PAWC St. 14-R, pp. 8-9.
[11] PAWC St. 14-R, pp. 4-5, 17.

5. Focusing on a particular period of COVID-19 economic distress to justify denying a rate increase that objective financial data support is contrary to long-standing principles of utility rate regulation.

6. Traditional ratemaking principles must be applied even in times of economic distress, and can be joined with programs to assist customers in financial need.[12]

7. It is not possible, "to fairly balance the interests of all parties to the extent possible" by setting rates in a "null" zone below the "zone of reasonableness. The Commission must set the rate within the zone of reasonableness to be "just and reasonable."[13]

8. The requirement of just and reasonable rates "confer[s] upon the regulatory body [the Commission] the power to make and apply policy concerning the appropriate *balance* between prices charged to utility customers and returns on capital to utility investors *consonant with constitutional protections* applicable to both."[14]

9. The Commission has the duty and the discretion to determine the proper balance between the interests of ratepayers and a utility's investors. Rates cannot be just and reasonable if they do not balance consumer and investor interests. The public interest is determined by a balancing of the interests without favoring either of them.[15]

10. Failing to utilize traditional ratemaking principles would also harm customers by undermining the financial stability of utilities and their ability to provide safe and reliable service, while also depriving customers and the communities in which they live and work the

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[12] *Id.*, pp. 4-5, 32-33.
[13] *Permian Basin Area Rate Cases*, 390 U.S. 747, 770 (1968) ("any rate selected . . . *from* the broad zone of reasonableness . . . cannot be attacked as confiscatory.") (emphasis added).
[14] *Pennsylvania Electric Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 130, 133 (Pa. 1985) (quoting *Pa. Pub. Util. Comm'n v. Pennsylvania Gas and Water Co.*, 424 A.2d 1213, 1219 (1980) (emphasis original), *cert denied*, 454 U.S. 824 (1981)).
[15] *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

benefits of planned system improvements and the attendant economic stimulus of capital investment and preservation or enhancement of employment opportunities.[16]

11. Accepting Mr. Rubin's recommendation would also constitute a confiscation of utility assets. Mr. Rubin acknowledges that "[i]n protecting consumers, regulators cannot confiscate the property of the utility's investors. That is, regulators cannot tilt the scale so far in favor of consumers . . . that the utility's investors are deprived of an opportunity to earn a reasonable return on their investment.[17]

12. Ratemaking can be confiscatory if there is an arbitrary change in methodology (i.e., in this case, a complete abandonment of traditional ratemaking principles).[18]

13. On an annual basis, the economic activity flowing from the Company's capital expenditures will support 4,400 jobs in 2020 and over 3,700 jobs in each of 2021 and 2022.[19]

14. The Company and the other Joint Petitioners have reached a comprehensive settlement reflecting a substantial reduction in the Company's initially proposed revenue that will mitigate customer rate impact while permitting the Company to proceed with planned investments that are needed to maintain safe and reliable service.

15. The Company and other parties to this proceeding have agreed upon a wide range of initiatives that will help customers, particularly low-income customers, with the cost of utility service during the COVID-19 emergency.[20]

16. Mr. Rubin's recommendation to deny any rate increase at this time should be rejected.

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[16] PAWC St. 14-R, pp. 10-17, 24-27.
[17] OCA St. 1, p. 7.
[18] *Duquesne Light Co. v. Barsach*, 488 U.S. 1989).
[19] PAWC St. 15-R, pp. 20-21.
[20] *See* Joint Petition, Section II.C (discussing new COVID-19-related measures and other enhancements to the Company's low-income assistance).

III. PAWC'S PROPOSED MULTI-YEAR RATE PLAN

1. PAWC's initial filing proposed a MYRP consisting of Rate Years 1 and 2.[21]

2. Rate Year 1, covering the period from the end of the suspension period (January 28, 2021) to December 31, 2021, corresponds to a FPFTY authorized by Section 315(e). As proposed, Rate Year 2 would cover the twelve months beginning January 1, 2021 and ending December 31, 2021.[22]

3. The rates proposed for Rate Years 1 and 2 were designed to produce additional total-Company (water and wastewater) annual revenue of $92.4 million (annualized for a full year) and $46.2 million, respectively.[23]

4. PAWC has agreed to withdraw its proposed Rate Year 2 increase if the Commission approves the Settlement.

5. If the Settlement is approved, it would render issues relating to Rate Year 2 moot.

6. If the Settlement is not approved, the ALJ and the Commission would need to consider and rule upon the Company's MYRP.

7. If the Settlement is not approved, PAWC's proposed MYRP should be adopted as proposed because: (1) it will provide an extended period of rate stability; (2) it will provide better operational and business planning for PAWC and its contractors and vendors; (3) it will furnish greater efficiencies, create economies of scale and benefit customers by reducing costs; and (4) the Pennsylvania Legislature specifically identified MYRPs as an alternative rate mechanism that promotes its purpose for adding Section 1330 to the Code (to "encourage and sustain investment through appropriate cost-recovery mechanisms").[24]

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[21] PAWC St. 1, p. 6.
[22] *Id.*
[23] *Id.*
[24] *Id.*, pp. 17-20.

IV. Rate Base

A. Utility Plant in Service

1. The increase in PAWC's utility plant in service since its last base rate case is the single largest factor driving the Company's need for an increase in revenues.[25]

2. Since the end of the FPFTY in its last case (December 31, 2018), through the end of 2022, PAWC will have invested over $1.64 billion in new or replacement plant, and the overwhelming portion of this investment is in source of supply, treatment, distribution and collection assets.[26]

3. PAWC's investment is also needed to improve service to small and troubled water and wastewater systems that PAWC has acquired in furtherance of the Commission's policy that larger, viable water and wastewater companies acquire small, troubled systems and make the necessary improvement to assure safe and reliable service.[27]

4. To address these diverse capital needs, PAWC must raise substantial amounts of debt and equity and, in the process, demonstrate its ability to provide a reasonable return in order to convince investors to commit their funds to the Company.[28]

B. Average Versus Year-End Rate Base

1. The Company developed separate revenue requirements for RYs 1 and 2 of its originally-proposed MYRP based on projected annual plant in service, revenues and expenses.

2. The Company developed separate revenue requirements for RYs 1 and 2 of its originally-proposed MYRP based on projected annual plant in service, revenues and expenses.

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[25] PAWC St. 1, pp. 8-9.
[26] *Id*.
[27] *Id*.
[28] *Id*.

3. For RY1, the Company employed an "average" rate base and depreciation accrual, which reflects its plant balances and accumulated depreciation at the beginning and end of that year divided by two, because, if its MYRP were adopted as proposed, new base rates for RY2 would have become effective as soon as RY1 ended.

4. RY2, in the context of the Company's proposed MYRP, would have been comparable to the fully projected future test year ("FPFTY") in a case that employs only a FPFTY.

5. The Company's rate base claim for RY2 reflected its balances of plant projected to be in service and retirements as of December 31, 2022 because under the as-proposed MYRP for RY2 would have remained in effect until new rates were established in a subsequent base rate case.

6. Similarly, the Company's annual depreciation expense claim for RY2 is based on the projected plant balances and retirements as of December 31, 2022, and its RY2 accrued depreciation reflects the accrued depreciation that would be recorded during the entire year ending December 31, 2022.

7. In addition, in calculating its RY2 income tax expense, the Company reflected the annual amount of plant-related tax deductions for the year ending December 31, 2022. Similarly, and consistent with the methodology used for a FPFTY, the Company annualized the revenues for changes in number customers and annualized operating expenses as of the end of RY2.

8. OCA witness Smith advocated the use of an annual "average" for rate base and annual depreciation for RY2 because he contends a year-end rate base is never appropriate for use with any form of FPFTY.

9. The Commission's orders implementing Act 11 of 2012 ("Act 11"), which amended Section 315(e) to authorize FPFTYs clearly contemplated that year-end rate base and annual depreciation would be used when a FPFTY is employed.[29]

10. The Commission implemented that guidance in UGI Utilities, Inc. – Electric Division's 2017 rate case, where the PUC rejected the same position advanced by OCA witness Smith in this proceeding.[30] The Commission's decision was affirmed by the Commonwealth Court upon appeal by the OCA.[31]

11. Under the Settlement, if approved, PAWC will withdraw its requested increase for RY2.

12. The rate base that must be used to properly assess the Company's revenue requirement for 2021 under the Settlement consists of: (1) PAWC's "average" rate base for 2021 (as set forth PAWC Exhibit 3-A when a MYRP was still contemplated); and (2) the difference between "average" rate base and the Company's rate base as of the end of 2021, which is $ 131,810,840.[32] Similarly, the Company's original claim for the annual depreciation accrual for 2021 reflected "average" utility plant in service and, therefore, must be annualized to match the use of end-of-year rate base, which requires an increase of $2,631,930.[33]

13. The Company's revenue requirement for RY1 (the twelve months ending December 31, 2021) should be calculated using end-of-FPFTY rate base and annual depreciation in assessing the justness and reasonableness of the increase in revenues that the Settlement would produce.

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[29] *See Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Aug. 2, 2012); PAWC St. 1-R, pp. 31, 33 and 35-39.
[30] *Pa. P.U.C. v. UGI Utilities, Inc. – Electric Division*, R- R-2017-2640058 (Opinion and Order entered October 4, 2018) ("*UGI Electric 2018*"), pp. 21, 24-26.
[31] *McCloskey v. Pa. P.U.C.*, 225 A.3d 192, 207-208 (Pa. Cmwlth. 2020) ("*McCloskey/UGI*").
[32] PAWC St. 5-R, p. 3.
[33] *Id.*, pp. 3-4.

C. Deduction from Rate Base of EADIT

1. OCA witness Smith proposed adjustments to require a highly accelerated amortization of certain "unprotected" Excess ADIT, contrary to the agreement reached in prior settlements about how those components of ADIT would be treated for ratemaking purposes.[34]

2. The OCA-proposed accelerated amortization is incorrect and should not be adopted.[35] However, there is an inter-relationship between the Excess ADIT amortization and the Company's rate base.

3. The unamortized portion of Excess ADIT is a deduction from rate base.[36] Therefore, if the Excess ADIT amortization period were to be shortened as OCA witness Smith proposes, the amount of unamortized Excess ADIT deducted from the Company's rate base must be reduced (i.e., rate base must be increased) to correspond to the more rapid amortization.

4. If the OCA's adjustment to accelerate the amortization of certain Excess ADIT components is rejected, no concomitant rate base adjustment would be necessary.

D. Cash Working Capital

1. Cash working capital represents the funds needed to pay operating and maintenance expenses and taxes that, on average, are incurred in advance of the utility's receipt of revenues.[37]

2. PAWC calculated its cash working capital requirement using the accepted, PUC-approved lead-lag method.[38]

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[34] *See* PAWC St. 10-R, pp. 11-24.
[35] *Id*.
[36] PAWC St. 10-R, pp. 17-18.
[37] PAWC St. 5, pp. 14-17.
[38] *Id*.

3. No party disputed the methodology the Company employed or challenged its proposed revenue lag, expense lag or net lag (revenue lag minus expense lag).

4. Operating and maintenance expenses are an input to the calculation of cash working capital.[39]

5. OCA witness Smith proposed adjustments to the Company's requested cash working capital that are concomitant to his proposed adjustments to operating and maintenance expenses.

6. For the reasons set forth in Section VII of PAWC's Main Brief, none of Mr. Smith adjustments should be adopted.

7. However, if any changes are made to the Company's proposed operating and maintenance expenses, its cash working capital would need to be recalculated.

V. Revenues

1. The Company's pro forma revenues under present rates for the future test year ("FTY") ending December 31, 2020, RY1 and RY2 are $722,832,646, $715,815,916 and $803,056,990 (inclusive of the RY1 increase), respectively.

2. While PAWC has been making substantial investments in new and replacement plant to maintain and enhance service to customers, it has been experiencing – and will continue to experience – a well-documented multi-year trend of declining per-customer residential and commercial consumption.[40]

3. The decline in consumption was delineated and quantified by PAWC witness Gregory P. Roach based on a comprehensive analysis, which demonstrated continuing declines in residential and commercial per-customer consumption of 893 gallons, or 2.18%, and 2,171 gallons, or

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[39] *Id*.
[40] PAWC St. 1, p. 35.

0.78%, respectively.[41]

4. As explained by Mr. Roach, the primary drivers of this multi-year continuing trend of declining per-customer usage is water-efficient plumbing fixtures and water-efficient appliances, which are mandated by federal law, increased societal emphasis on conservation and the environment, and changes in consumer behavior in response to price signals provided by rising water and energy rates. [42]

5. The OCA proposed adjustments that would increase pro forma present rate revenues by approximately $7.4 million and $10.1 million, for RY1 and 2, respectively, to (1) remove PAWC's proposed reduction to 2020 residential revenues due to declining usage and (2) reflect "average" 2022 declining residential consumption.

6. The OCA's proposed adjustment to the Company's 2020 residential operating revenues should be rejected because the COVID-19 emergency is not expected to stop or materially change the long-term trend of declining consumption.[43]

7. Contrary to the OCA's contention that the Company "annualized" its adjustment for declining residential consumption at December 31, 2022, PAWC calculated the effect of declining usage on water sales revenue from the mid-point of the historic test year ("HTY") ended December 31, 2019 to the mid-point of RY2 (i.e., an interval of 36 months).[44]

8. In its surrebuttal testimony and exhibits, the OCA withdrew its adjustments to the Company's operating revenues for declining residential consumption.[45]

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[41] PAWC St. 9, pp. 4-18; PAWC Exh. GPR-1.
[42] PAWC St. 9, pp. 19-33.
[43] *See* PAWC St. 9-R, pp. 2-6.
[44] PAWC St. 4-R, pp. 8-9.
[45] *Compare* OCA Exh. LA-1, Schs. C.1.B to C-1.H and OCA Exh. LA-2, Sch. C-1 with OCA Exh. LA-6, Schs. C and C.1.B to C.l.I; *see also* OCA St. 2-SR, pp. 56-57 ("PAWC has identified other issues in its rebuttal including (1) declining residential and commercial consumption, (2) changes in revenue due to the change in number of customers, and (3) change in chemical and power costs. I am not pursuing further adjustments for these items in the

VI. Operating and Maintenance Expenses

A. Payroll Costs – Prorating Wage and Salary Increases

1. The Company calculated its payroll claim for the FTY, RY1 and RY2 on a position-by-position basis using PAWC's authorized number of employees for 2020, 2021 and 2022.[46]

2. PAWC adjusted its actual 2020 non-collective bargaining unit ("CBU") employee salary and wage expense based on a historic three-year average of base pay percentage increases.[47]

3. For CBU employees, PAWC's wage expense allowances for RY1 and RY2 were based on actual rates designated in the most recent effective collective bargaining agreements ("CBAs"), and for those bargaining units for which CBAs expired, PAWC applied the historical three-year average of annual increase percentages in prior contracts.[48]

4. The Company's RY1 payroll claim reflects a prorated level of wage and salary increases. RY2 wage rates and salaries were annualized to reflect the effect of the increases as of December 31, 2022 because the rates established for RY2 will remain in effect until new rates are established in a subsequent rate case.[49]

5. The OCA's witness, Mr. Smith, proposed adjustments to prorate the Company's claimed RY2 salaries and wages expense and payroll taxes by 9.5 months and concomitant adjustments to reduce the expense for employee benefits by the ratio of the OCA's recommended level of salaries and wages.[50]

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context of the 2022 Rate Year."); OCA Exh. LA-8 (omitting Schedule C-1 adjustments for declining residential usage in RY 2).

[46] *See* PAWC Sts. 6, pp. 6-7; PAWC Exhs. 3-A and 3-B. The Company's payroll expense claim reflects: (1) salaries and wages (including performance compensation); (2) group insurance; (3) other benefits (401k, Defined Contribution Plan and Employee Stock Purchase Plan); and (4) payroll taxes. *Id.*, p. 6.

[47] PAWC St. 6, p. 7; PAWC Exh. 3-B.

[48] *Id.*

[49] *Id.*

[50] OCA St. 2, pp. 60-65 and 79-82; OCA St. 2-SR, pp. 45-48 and 50-53.

6. Mr. Smith's proposed adjustments are based on his contention that RY2 should reflect "average" and not year-end conditions.[51]

7. The same argument advanced by Mr. Smith was rejected in *UGI Utilities 2018* (pp. 61-63) where the PUC approved the same annualization adjustment proposed by PAWC in this case to recoup additional expenses incurred via salary and wage increases over the course of test year.

B. Performance Based Compensation (PAWC and Service Company)

1. Mr. Smith proposed adjustments to disallow 50% of the compensation earned by employees of PAWC and the Service Company under the American Water Annual Performance Plan ("APP"). He also proposed disallowing 100% of the compensation earned by PAWC and Service Company employees under the American Water Long-Term Performance Plan ("LTPP"). In aggregate, his proposed adjustments would reduce PAWC's overall operating expense claims in this case by $1.9 million (RY1) and $1.7 million (RY2).[52]

2. Mr. Smith claimed that the proposed 50% and 100% disallowances reflect the portion of employee performance based compensation that allegedly only benefits "shareholders." [53]

3. Arguments and adjustments like those advanced by Mr. Smith were rejected by the Commission in a fully-litigated base rate case for PPL Electric Utilities ("PPL") in 2012.[54]

4. The Commission, relying upon and affirming its *PPL Electric 2012* decision, rejected proposed disallowances of performance compensation again in *UGI Utilities 2018* (pp. 73-74).

5. No party disputes the reasonableness of PAWC's or the Service Company's overall compensation package. The Company presented unrefuted evidence (a detailed third-party

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[51] *See id.*
[52] OCA Exh. LA-8, Schs. C-6, C-9 and C-10.
[53] OCA St. 2, pp. 68-77; OCA St. 2-SR, pp. 32-36 and 50.
[54] *Pa. P.U.C. v. PPL Electric Utilities Corp*., Docket No. R-2012-2290597 (Opinion and Order entered Dec. 28, 2012), p. 26 ("*PPL Electric 2012*"); *see also* PAWC St. 6-R, pp. 13-14.

compensation analysis) demonstrating that American Water's total employee compensation, including performance compensation, is consistent with market best practices and comparable to the designs of utility peers [55] – the same evidence the Commission found to be determinative in *PPL Electric 2012* and in *UGI Utilities 2018*.

C. Capitalization Rate

1. Mr. Smith proposed using the HTY capitalization rate (a single data point) in lieu of an average of the capitalization rates PAWC experienced during calendar years 2017-2019. Mr. Smith's proposal would produce a higher capitalization rate and correspondingly reduce PAWC's payroll costs charged to operating and maintenance expense by $2.6 (RY1) and $2.7 (RY2).[56]

2. In prior rate cases the Company has consistently used a three-year average to smooth year-to-year variations, and that approach was not opposed.[57]

3. The Company proposed a reasonable capitalization rate, which should be used in this case.

D. Annual Depreciation

1. The Settlement provides that the depreciation rates set forth in the Company's depreciation study are appropriate for ratemaking purposes in this case for 2021 and that the Company will use those depreciation rates to calculate the depreciation expense it records on its regulated books of account.[58]

2. No party in this case disputed the reasonableness of the Company's proposed depreciation rates.

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[55] PAWC St. 6-R, pp. 9-10; *see also* CONFIDENTIAL OCA Exh. LA-4, pp. 52-57.
[56] OCA Exh. LA-7, Sch. C-8A; OCA Exh. LA-8, Sch. C-8A.
[57] PAWC St. 6-R, p. 6.
[58] Joint Petition, ¶29.

VII. Taxes

A. Taxes Other Than Income Taxes

1. The only issues OCA raised relating to taxes other than income taxes pertain to annualizing payroll taxes as of the end of Rate Year 2 and calculating property taxes based on plant balances as of the end of Rate Year 2.[59]

2. The Settlement eliminates Rate Year 2, and these issues are moot if it is approved.

3. If the Settlement is not approved, then annualizing payroll taxes as of the end of Rate Year 2 and using plant balances as of that date for property tax expense is proper and consistent with the Commission's holding in *UGI Utilities*.

B. Income Taxes – Excess ADIT

1. EADIT was created by the reduction in the federal corporate income tax rate from 35% to 21% under the Tax Cuts and Jobs Act.[60]

2. Certain components of EADIT are labeled "protected" under applicable tax laws and, therefore, can be amortized as a reduction to tax expense for ratemaking purposes only over a prescribed period that approximates the life of the plant to which the EADIT relates.[61]

3. Other components of EADIT are "unprotected" – the tax laws do not mandate the amortization period for ratemaking purposes.[62]

4. The Company proposed amortizing plant-related unprotected EADIT over a period that corresponds to the life of the underlying plant, and proposed amortizing non-plant related EADIT over twenty years.[63]

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[59] OCA St. 2-SR, pp. 45 and 55.
[60] PAWC St. 10 (Wilde), p. 7; PAWC St. 10-R (Wilde), pp. 2-3
[61] PAWC St. 10, pp. 8-9 and 12-19.
[62] *Id*.
[63] *See* PAWC St. 10-R, p. 12.

5. OCA witness Smith proposed a steeply accelerated amortization period of only three years for all unprotected EADIT.[64]

6. The vast majority of unprotected EADIT ($140 million) is related to "repair" deductions.[65]

7. OCA witness Smith's proposal to use a three-year amortization of these items is unprecedented, is contrary to the position the OCA itself supported in Duquesne Light Company's 2018 base rate case[66] and, most importantly, represents OCA's attempt to renege on its agreement – memorialized in Commission-approved settlements in prior PAWC base rate cases – that repair deductions should be treated for ratemaking purposes exactly the same way they would if the tax laws made them "protected."[67]

8. OCA's proposal to accelerate the amortization of unprotected EADIT is contrary to prior PUC-approved practices that, until now, OCA witness Smith had accepted and supported as beneficial to customers.[68]

9. In the settlement of the Duquesne Light Company's 2018 base rate case, the OCA recognized that amortizing unprotected EADIT related to repair deductions pursuant to the average rate assumption method ("ARAM"), which distributes tax benefits over the life of the underlying repair property, is proper, is consistent with the normalization of repair deductions used by Duquesne for ratemaking and provides benefits to customers.[69]

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[64] OCA St. 2, pp. 108-110.
[65] PAWC Exhibit JRW-2R, p. 1 ("Repairs").
[66] *Pa. P.U.C. v. Duquesne Light Co.*, Docket No. R-2018-3000124 (Opinion and Order entered Dec. 20, 2018). *See* PAWC St. 10, pp. 17-18.
[67] PAWC St. 10-R, pp. 17-21.
[68] *Id*.
[69] PAWC St. 10, pp. 17-19.

10. The OCA's proposed three-year amortization would create substantial intergenerational inequity by distributing the benefits of EADIT amortization over a short three-year period, which is only a fraction of the actual service life of the property that the EADIT is financing.[70]

11. Under a three-year amortization, there is a mismatch between the distribution of tax benefits that reduce the fixed costs of the Company's plant in service and the actual service life of that plant. EADIT tax benefits would be clustered in three years, while the plant that generated those tax effects would remain in service to customers, and its on-going fixed costs would continue to be borne by customers, over several decades into the future.[71]

12. The reduction in revenue requirement produced by a three-year amortization is a short-term effect. The three-year amortization ends as of December 31, 2023, which alone would increase PAWC's revenue requirement by approximately $38.7 million.[72]

13. Because the entire no-cost tax loan represented by a three-year EADIT amortization would be eliminated by December 31, 2023 as well, the Company's rate base would increase by approximately $116 million ($38.7 x 3). The rate base increase would be financed at the Company's pre-tax weighted average cost of capital, which would also increase PAWC's revenue requirement substantially.[73]

14. The Company's proposal for amortizing EADIT avoids the yo-yo effect on customers of a temporary reduction in revenue requirement followed immediately thereafter by a large increase.[74]

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[70] *Id*., pp. 14-15.
[71] *Id.*, pp. 14-15.
[72] *See* OCA Exhibit LA-6, p. 3, line 20, col. C.
[73] Tr., pp. 764-767 (Wilde Redirect).
[74] *Id*.

15. The OCA's proposed three-year amortization of EADIT is contrary to long-standing, Commission-approved use of normalization by PAWC for repair-related deductions; is contradicted by OCA witness Smith's testimony in prior PAWC base rate cases; violates the agreement for use of normalization for repair deductions memorialized in prior PAWC rate case settlements; is inconsistent with the OCA's position in the Duquesne Light 2018 rate case; would create significant intergenerational inequity; and would produce only a short-term revenue requirement reduction followed immediately by a large increase in customer rates.[75]

16. The OCA's adjustment should be rejected.

VIII. FAIR RATE OF RETURN

1. Company witness Bulkley analyzed current market conditions, applied traditional return on equity ("ROE") models accepted by the Commission, and recommended an ROE of 10.8%.[76]

2. OCA witness Rothschild proposed a proposed ROE of only 8.00 and 8.05%, respectively, for the Company's water and wastewater operations.[77]

3. The ROEs proposed by Mr. Rothschild are well below the authorized returns for *all* water utilities in the United States for the last decade, excluding one South Carolina utility that serves only 16,500 water and 11,800 wastewater customers, is a fraction of the size of PAWC, and had significant operational problems.[78]

4. The ROEs proposed by Mr. Rothschild are well below the 9.90% ROE authorized by the Commission for the water utility DSIC on October 29, 2020, based on data through September 28, 2020.[79]

[75] PAWC St. 10; PAWC St. 10-R; Tr., pp. 764-767.
[76] PAWC St. 13, pp. 5-6, 83-84.
[77] OCA St. 3, pp. 3, 82-83.
[78] PAWC St. 13-R, pp. 14-15; PAWC St. 13-RJ, p. 4.
[79] *October 20 QER*, p. 27.

5. A utility's ROE should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties (262 U.S. at 693). These principles were applied by the Commission in *UGI Utilities* and *PPL Electric 2012*, and have been adopted by the appellate courts of Pennsylvania and in numerous cases.[80]

6. A utility's ROE must also be commensurate with the risk assumed.[81]

7. Determining a fair rate of return requires reviewing many factors, including: (1) the earnings necessary to assure confidence in the financial integrity of the company and maintain its credit standing; (2) the need to pay dividends and interest; and (3) the amount of the investment, the size and nature of the utility, its business and financial risks, and the circumstances attending its origin, development and operation.[82]

A. Capital Structure

1. PAWC's capital structure is well within the range of equity ratios of a proxy group of utilities.[83]

2. Mr. Rothschild agreed with the Company's proposed capital structure for its wastewater operations.[84]

3. For PAWC's water operations, Mr. Rothschild recommended a lower equity ratio based on an average of the equity ratios of his proxy group.[85]

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[80] *See, e.g., Lower Paxton Twp. v. Pa. P.U.C.*, 13 Pa. Cmwlth. 135, 317 A.2d 917 (1974).
[81] *Bluefield Waterworks and Imp. Co. v. P.S.C. of West Virginia*, 262 U.S. 679, 692 (1923); in *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 313-14 (1989).
[82] *Pa. P.U.C. v. Pennsylvania Gas and Water Co. - Water Division*, 19 Pa. Cmwlth. 214, 233, 341 A.2d 239 (1975); *Lower Paxton Twp., supra*.
[83] PAWC St. 13, pp. 76-77.
[84] OCA St. 3, p. 13.
[85] *Id.*

4. Mr. Rothschild never explained the inconsistency of his acceptance of the capital structure for PAWC's wastewater operations and his assertion that a hypothetical average must be used for PAWC's water operations. Moreover, he used the mean equity ratio of his much smaller proxy group, not the median, which effectively resulted in an equity percentage that was biased towards the lower end of his proxy group range.[86]

B. Cost of Long-Term Debt

1. The Company's proposed cost rate for long-term debt was based on actual and projected debt issues, with interest rates on anticipated future issuances projected based on the spread over Treasury yields.[87]

2. Mr. Rothschild did not dispute PAWC's proposed long-term debt cost rates.[88]

C. Common Equity Cost Rate

1. Given PAWC's capital needs, it is critically important that PAWC have access to sufficient capital on reasonable terms.[89]

2. This task, which would be formidable under normal circumstances, is all the more difficult today because of current market volatility due to the COVID-19 emergency, unsustainably high utility stock valuations, and recent federal tax reform.[90]

3. The extreme volatility has led to high valuations of utility stocks and low dividend yields as investors move into dividend paying stocks.[91] Such valuations can have the effect of depressing dividend yields, resulting in overall lower estimates of the cost of equity. This effect

[86] PAWC St. 13-R, pp. 112-13.
[87] PAWC St. 13, pp. 76-77.
[88] OCA St. 3, p. 13.
[89] PAWC St. 13, p. 9.
[90] *Id.*, p. 11.
[91] PAWC St. 13, p. 19-29.

must be taken into account in setting an ROE for the period that PAWC's rates will be in effect.[92]

4. The Tax Cuts and Jobs Act ("TCJA") has had a negative effect on regulated utilities (and their parent holding companies) by reducing cash flow, which continues to raise serious concerns for credit agencies.[93]

1. Discounted Cash Flow (DCF)

1. The DCF model is designed to find the present value of an expected future stream of net cash flows during an investment holding period discounted at the required ROE.[94]

2. The ROE is the total anticipated return rate and is commonly expressed in terms of the sum of a representative dividend yield plus a growth rate to capture investors' expectations of future increases in cash dividends.[95]

3. The results of Ms. Bulkley's DCF analysis were significantly below normal market values and are attributable to high utility stock valuations that are unlikely to be sustainable. Other ROE estimation models should be given additional weight.[96]

4. This conclusion is consistent with Commission guidance.[97]

5. Mr. Rothschild calculated a DCF cost of equity between 7.84 and 7.96 for his proxy group, which is well below any authorized ROE for a water utility in the last 10 years except for

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[92] *Id.*, pp. 24-25.
[93] *Id.*, pp. 29-36.
[94] *Id.*, p. 48.
[95] *Id.*
[96] *Id.*, pp. 53-54. *See also* PAWC St. 13-R, p. 19.
[97] *UGI Electric 2017*, pp. 104-05 ("Sole reliance on one methodology without checking the validity of the results of that methodology with other cost of equity analyses does not always lend itself to responsible ratemaking. . . [W]here evidence based on the CAPM and RP methods indicates that the DCF-only results may understate the utility's current cost of equity capital, we will consider those other methods, to some degree, in evaluating the appropriate range of reasonableness for our equity return determination.").

the Blue Granite case where there were management performance concerns and the Commission only had one witness to rely on due to credibility concerns.[98]

6. Mr. Rothschild's DCF calculation contained many flaws which are not reliable.[99]

2. Capital Assert Pricing Model

1. Under the CAPM method, the expected common equity return is determined by adding a market premium to a risk-free rate of return. The market premium, consistent with modern portfolio theory, is proportional to the non-diversifiable, or systematic, risk of a particular security. The non-diversifiable risk is obtained through the application of a "beta", which indicates the risk of an individual stock relative to the risk of the entire market.[100]

2. Ms. Bulkley's CAPM analysis indicated traditional CAPM and Empirical CAPM ROEs of 9.58% to 12.12% (with a mean of 10.96) if PAWC's parent company data are included in the proxy group, and 9.68% to 12.11% (with a mean of 11.00%) if PAWC's parent company data are not included.[101]

3. Mr. Rothschild disagreed with Ms. Bulkley's CAPM analysis and proposed changes.[102]

4. Ms. Bulkley explained the errors in his approach and also refuted his claims that her CAPM calculation was not market-based, noting that her method was consistent with that used by the Federal Energy Regulatory Commission and other state commissions.[103]

[98] OCA St. 3, p. 6.
[99] PAWC St. 13-R, pp. 73-80.
[100] PAWC St. 13, pp. 54-55.
[101] *Id.* at 59-60. Ms. Bulkley updated her traditional CAPM and Empirical CAPM analyses in PAWC St. 13-R, p. 19.
[102] OCA St. 3, pp. 48-50; PAWC St. 3-R, pp. 82-92.
[103] PAWC St. 13-R, pp. 97-98.

3. Expected Earnings Approach

1. The use of an Expected Earnings approach provides further evidence of investor return requirements when properly analyzed and is useful in helping to determine the opportunity cost of investing in the subject company, which is relevant in determining a company's ROE.[104]

2. Mr. Rothschild stated that the Expected Earnings approach does not represent a market-derived cost of equity.[105]

3. Ms. Bulkley calculated a mean result for the Expected Earnings approach for the proxy group of 11.33 percent and a median of 11.72 percent (including AWK) and a mean of 11.29 percent and a medium of 10.84 percent excluding AWK.[106] These figures were later updated to 10.22 percent and 10.93 percent, respectively, including AWK, and 9.99 percent and to 10.86 percent, respectively, excluding AWK.

D. Business Risks and Management Performance

1. The determination of an appropriate ROE requires consideration of many factors including risks associated with capital expenditure program and risks associated with environmental and water quality regulations.[107]

2. The Company presented substantial evidence demonstrating that, in the face of the foregoing risks and challenges, it exhibited excellent management performance in a variety of areas critically important to assuring safe, reliable and reasonable service, including source water protection and monitoring, extensive system additions and upgrades, and delivering a variety of public benefits through acquisitions.[108]

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[104] PAWC St. 13, p. 61.
[105] PAWC St. 13, p. 63; PAWC St. 13-R, p. 106.
[106] PAWC St. 13, pp. 4, 63; PACW St. 13-R, pp. 18-19.
[107] PAWC St. 13, pp. 45-53; 68.
[108] PAWC St. 2, pp. 7-9; PAWC St. 3, pp. 4-35; PAWC St. 8, pp. 4-14.

3. Ms. Bulkley determined that PAWC's superior management performance should be appropriately recognized by the Commission pursuant to Section 523 of the Code by granting an ROE at the upper end of the 10.00-10.80% range she recommended.[109]

4. If the Commission were to authorize an ROE less than 10.80%, Ms. Bulkley recommended that it add a management performance adjustment of no less than the 25 basis points proposed by Mr. Nevirauskas.[110]

5. Mr. Rothschild argued that PAWC's originally proposed MYRP and RCS reduced its risk, but since both the MYRP and RCS would be withdrawn if the Settlement is approved, those points are moot. Mr. Rothschild offered the unsubstantiated claim that PAWC's risk level "is likely a little less lower" that the water utilities in his proxy group.[111]

6. Mr. Rothschild also asserted that the Commission's 2008 recognition of a water company's superior performance with an identical 25 basis point increase should not be applied here due to COVID-19 economic conditions, which ignores the fact that the Commission approved that 25 basis point increase during a major economic crisis (the 2008 Great Recession).[112]

E. Other Parties' Equity Cost Rate Recommendations and Principal Areas of Dispute

1. Following the Settlement, the OCA is the only party proposing an alternative capital structure and ROE.

2. After adjustments to Mr. Rothschild's ROE analyses based on Ms. Bulkley's adjustments, Mr. Rothschild's DCF and CAPM analyses would result in an ROE range of

[109] PAWC St. 13, p. 75.
[110] *Id.*, p. 76.
[111] OCA St. 3, pp. 75-81; OCA St. 3-R, p. 14.
[112] PAWC St. 13-R, p. 110.

10.62% to 11.15%, which is consistent with Ms. Bulkley's recommendation and much higher than Mr. Rothschild's recommendation.[113]

3. The Commission should accept PAWC's proposed ROE and reject OCA's inadequate proposed ROE.

IX. REGIONALIZATION AND CONSOLIDATION SURCHARGE

1. During the period between rate cases, the cumulative shortfall from Section 1329 acquisitions can degrade PAWC's return on and of rate base and recovery of expenses to a significant degree. PAWC has no control over these shortfalls; they are largely a function of the rates set by the prior owner, which PAWC is legally required to adopt when acquiring each system.[114]

2. PAWC proposed a Regionalization and Consolidation Surcharge to address this shortfall.[115]

3. The Regionalization and Consolidation Surcharge would be calculated and implemented as set forth in PAWC's proposed Water Tariff and proposed Wastewater Tariff. It would also have the consumer protections described in those tariffs.[116]

4. The RCS would be calculated as set forth in detail in PAWC's proposed tariff. In summary, the surcharge would permit the Company to recover the revenue shortfall associated with PAWC's acquisition of water and wastewater systems pursuant to Section 1329 since PAWC's most recent base rate case. The RCS would be initiated (and, once initiated, would be revised) once per year, and would remain in effect for the next twelve months. The surcharge would be subject to an annual reconciliation, and to audit at intervals determined by the

[113] *Id.*, pp. 101-02.
[114] PAWC St. 8, p. 21.
[115] PAWC St. 1, pp. 20-24; PAWC St. 8, pp. 19-22.
[116] PAWC Exhibit AEE-3, Schedule 1 (water); PAWC Exhibit AEE-3, Schedule 2 (wastewater).

Commission. The RCS would be calculated as a single rate, applied equally to the bills of all of the Company's water and wastewater customers (other than customers of the newly-acquired systems). The surcharge would be subject to a cap of 5.0% of the Company's total water and wastewater revenues, and would be reset to 0.0% if PAWC were to earn in excess of the staff quarterly earnings report cost of equity.[117]

5. The RCS is based on Code Section 1330 ("alternative ratemaking for utilities"), which was intended, in part, to "encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with the efficient consumption of utility service." Adoption of the RCS would enable PAWC to enhance the safety, security, reliability and availability of the municipal systems it purchases between rate cases.

6. Section 1330 was intended to work in tandem with Section 1329 of the Code. Together, these Code sections create a legislative framework that authorizes and encourages PUC-regulated public utilities to acquire at fair market value water and wastewater systems owned by municipalities and authorities. Further, these sections promote the public policy of promoting regionalization and consolidation, promoting environmental and economic benefits for customers and for the public at large.[118]

7. The RCS will promote the regionalization and consolidation of water and wastewater systems by eliminating obstacles to the kinds of acquisitions the Legislature sought to promote by enacting Section 1329.

8. The RCS is consistent with Pennsylvania case law. *Popowsky v. Pa. Pub. Util. Comm'n*, 13 A.3d 583, 591 (Pa. Cmwlth. 2011) upheld the Commission's decision allowing Newtown

[117] PAWC St. 1, pp. 22-23.
[118] 52 Pa. Code §§ 69.711 and 69.721.

Artesian Water Company to impose a Purchased Water Adjustment Surcharge. The Commonwealth Court of Pennsylvania ("Commonwealth Court") held that surcharge recovery is available under Section 1307(a) of the Code (1) where expressly authorized by the General Assembly, or (2) where an expense is easily identifiable and beyond the utility's control Here, surcharge recovery is explicitly permitted by Section 1330(b)(2), which states: "An alternative rate mechanism established under this section may include rates under section 1307 (relating to sliding scale of rates; adjustments) . . . ."

9. Some parties opposed the RCS on legal grounds. For example, some parties claimed that the RCS is impermissible single issue ratemaking,[119] but that argument is incongruent with *Popowsky*, *supra*, 13 A.3d at 593, where the Commonwealth Court found that the doctrine of single-issue ratemaking does not apply to surcharges permitted by Section 1307 of the Code.

10. Some parties argued that the RCS would involve improper cross-subsidization.[120] The RCS, however, is calculated as the state tax adjustment surcharge ("STAS") is calculated, and as many distribution system improvement surcharges ("DSICs") are calculated.[121] The Commission has not held that these surcharges involve improper cross-subsidization and the RCS should be treated the same way.

11. Other parties opposed the RCS on policy grounds. Some parties seemed to argue that more-frequent base rate cases would be preferable to adopting the RCS.[122] The Commission should not adopt this recommendation because rate cases are expensive and ratepayers ultimately bear the reasonable cost of the litigation.

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[119] *See*, *e.g.*, PAWLUG St. 1, p. 4
[120] *Id.*, p. 6.
[121] PAWC St. 1-R p. 23.
[122] *See*, *e.g.*, I&E St. 1, p. 31.

12. Other parties seemed to argue that fewer acquisitions pursuant to Section 1329 would be preferable to adopting the RCS.[123] The Commission should reject this argument because the RCS would apply only to an acquisition if the Commission approves it, which requires a finding that the acquisition is in the public interest. The Commission should encourage, not discourage, acquisitions that are in the public interest.

13. Some parties even suggested that the mere fact PAWC proposed the RCS undermined the Commission's finding, in the relevant acquisition cases, that PAWC was financially fit to undertake those acquisitions.[124] This suggestion should be summarily rejected; the Commission must make decisions based on the substantial evidence in the record, and found in each acquisition proceeding that PAWC possessed the requisite financial fitness.

14. PAWC submits that some of the opposition to the RCS represents implicit opposition to Section 1329. As the administrative agency charged with implementing Section 1329, the Commission should seek ways of making that statute work more effectively. Adopting the RCS would accomplish this objective.

15. Adopting the RCS would reaffirm to investors that Pennsylvania has a regulatory environment that is favorable for public utility investors. By allowing PAWC to recover a portion of its investment in acquisitions promptly, the Commission would reduce the financial risk to investors. This would send a signal to the investment community that Pennsylvania utilities are a good place to invest which, in turn, would allow the purchase of more municipal systems pursuant to Section 1329.[125]

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[123] *See*, *e.g.*, I&E St. 4, pp. 17-18.
[124] I&E St. 4-SR, p. 20.
[125] PAWC St. 8-R, p. 18.

16. Some parties argue against adoption of the RCS during a pandemic, when some customers are experiencing financial challenges.[126] At the same time, however, some municipalities are experiencing financial challenges, causing them to consider selling their utility systems. As a result, PAWC may have many opportunities in the near term to acquire systems pursuant to Section 1329. Adopting the RCS at this time would assist PAWC in taking full advantage of these opportunities.

17. Some parties argue that, if the Commission approved the RCS proposal, it should establish additional consumer safeguards.[127] These proposals should be rejected. The RCS is patterned after the DSIC and has many of the same consumer protections. For example, rates would be set by a straightforward formula, eliminating the need for hearings before the surcharge rate is established, and the RCS would be reset to zero on the effective date of new base rates. These consumer protections have proven effective in for DSICs for many years. There is no reason why additional consumer protections are needed for the RCS.

18. Finally, some parties argue that the RCS should be applied to customers of newly-acquired systems as well as existing customers of PAWC. It is questionable whether the language of Section 1329 would permit the RCS to be charged to customers of newly-acquired systems. Under Section 1329, the acquiring company must adopt the rates of the acquired system until the acquiring company's next base rate case. DSIC is an express exception to this general rule. There is no exception for the RCS, however. Consequently, the Commission does not have authority to authorize the collection of a surcharge in the service territory of a newly-acquired system.

[126] I&E St. 4, p. 19.
[127] *See, e.g.*, PAWLUG St. 1, p. 7.

19. The Commission should approve the RCS, as proposed by the Company, without modification.

X. PENSION/OPEB TRACKER

1. Pursuant to Section 1330(b), the Company proposed to establish trackers and deferral accounts to reflect differences between the annual pension and other post-employment benefit ("OPEB") expenses reflected in its base rates and its actual annual pension and OPEB expenses.[128]

2. The differences (positive or negative) between forecasted and actual pension/OPEB would be reflected in rates in a subsequent base rate case.[129]

3. The factors that cause the differences between forecasted and actual pension/OPEB expenses (investment performance and workforce demographics) are outside the control of the Company.[130]

4. Establishing a tracker and deferral mechanism would assure that the Company recovers only its actual expenses, neither more nor less.[131]

5. The proposed tracker would provide protection to customers and the Company from variations between forecasted and actual pension/OPEB costs and assure that the risks and rewards are symmetrical.[132]

6. Over the twelve years ending in 2019, customers would have realized net benefits (actual costs lower than the rate allowance) in eight years for pension costs and nine years for OPEB costs.[133]

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[128] PAWC St. 1, pp. 7, 25-30.
[129] *Id.*, p. 26
[130] *Id.*, pp. 27-28.
[131] PAWC St. 1, pp. 25-30.
[132] *Id.*, p. 29.
[133] Id., pp. 29-30.

7. While PAWC believes that its proposal is reasonable and would yield substantial benefits for customers, it has agreed to withdraw its tracker/deferral proposal if the Settlement is approved.

XI. RATE STRUCTURE AND RATE DESIGN

A. Cost of Service Study

1. PAWC submitted eight separate cost of service studies, two of which relate to the Company's water operations and six relate to its wastewater operations.[134]

2. Constance E. Heppenstall, Senior Project Manager of Gannett Fleming, prepared the Company's cost of service studies for PAWC's water operations using the base-extra capacity method for allocating costs to customer classifications.[135]

3. The base-extra capacity has been accepted by this Commission as the appropriate methodology for determining class costs of service.[136]

4. The OCA proposed three revisions to the cost of service study for PAWC's water operations excluding Steelton.[137]

5. Ms. Heppenstall accepted those revisions with one modification that did not impact the results of the cost of service study in her rebuttal testimony.[138]

6. For sanitary sewer system ("SSS") wastewater operations, Ms. Heppenstall's cost of service studies were prepared using the functional cost allocation methodology described in "Financing and Charges for Wastewater Systems," Manual of Practice No. 27, published by the

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[134] PAWC St. 12, pp. 3-5.
[135] *Id.*, pp. 9-17; PAWC Exhs. 12-A (Water Operations Excluding Steelton) and 12-B (Steelton).
[136] PAWC St. 12, pp. 8-9. The base-extra capacity method is described on pages 3-4 of PAWC Exhibits 12-A and 12-B.
[137] OCA St. 1, pp. 37-40.
[138] PAWC St. 12-R, pp. 2-3; PAWC Exhs. CEH-1R (Exhibit 12-A Revised).

Water Environment Federation (the "WEF Manual").[139] That allocation methodology was modified in order to determine the incremental cost related to handling storm water for the PAWC's CSS operations (Scranton, McKeesport and Kane).[140]

7. Mr. Rubin disagreed with the way Ms. Heppenstall allocated stormwater-related costs to rate classes in the cost of studies performed for PAWC's CSS operations.[141]

8. Ms. Heppenstall allocated stormwater costs in the same manner as infiltration and inflow costs in a sanitary sewer system consistent with the WEF Manual.[142]

B. The Settlement's Rate Design

1. The Settlement properly balances the interests of a wide array of customer classes in achieving a resolution of all issues among the Joint Petitioners pertaining to rate structure, rate design and the allocation of any revenue increase granted by the Commission.

2. The Settlement Rates fairly and reasonably allocate the increase in water and wastewater revenues among PAWC's customer rate classes consistent with well-accepted ratemaking principles.

C. Allocation of Wastewater Revenue Requirement to Water Operations

1. OSBA witness, Mr. Kalcic, and OCA witness, Mr. Rubin disagreed with PAWC's proposal to invoke the Commission's authority under Section 1311(c)[143] to mitigate the impact

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[139] *Id.*, pp. 19-24; PAWC Exhs. 12-C (SSS Wastewater Operations Excluding Sadsbury and Exeter); 12-D (Sadsbury) and 12-E (Exeter).
[140] PAWC St. 12, pp. 25-36; PAWC Exhs. 12-F (Scranton); 12-G (McKeesport) and 12-H (Kane).
[141] OCA St. 1, pp. 46-50.
[142] PAWC St. 12, pp. 25-35.
[143] 66 Pa.C.S. §1311(c) ("the commission, when setting base rates, after notice and an opportunity to be heard, may allocate a portion of the wastewater revenue requirement to the combined water and wastewater customer base if in the public interest.").

of revenue increases on wastewater customers by recovering a portion of the Company's wastewater revenue requirement from its total water and wastewater customer base. [144]

2. Under the Settlement Rates, only $29.3 million (Step 1) and $21.5 million (Step 2) of wastewater revenue requirement – not the amounts of $32.9 million (RY1) and $35.2 million (RY2) PAWC originally proposed – would be allocated to its water operation's cost of service.[145]

3. The reduced allocation of total wastewater revenue requirement to water operations pursuant to Section 1311(c) under the Settlement is in the public interest.

4. While the Section 1311(c) allocation to water operations under the Settlement Rates plays an important role in mitigating the increases to the Company's 76,000 wastewater customers, it has a modest effect on water customers' bills – representing an increase of approximately $2.40 per month to an average residential customer.[146]

5. OCA recommended that the Commission require PAWC's investors to bear the entire cost to provide a subsidy of approximately $16.7 million to wastewater customers in the service areas of the four wastewater systems the Company purchased pursuant to PUC approved Section 1329 acquisitions.[147]

6. PAWC shareholders have a constitutional right to a fair return on and of their investment. Rates that are set too low constitute an unlawful taking of private property for a public purpose

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[144] OSBA St. 1 p. 16; OCA St. 1, pp. 64-70.
[145] *See* Joint Petition ¶ 69. E; PAWC St. 1, pp. 30-34.
[146] *See* Joint Petition, Statement A, p. 7 n.12.
[147] OCA St. 1, p. 70.

and are confiscatory.[148]

7. Allocation of a portion of the PAWC's wastewater revenue requirement to PAWC shareholders would result in unconstitutional, confiscatory rates.

D. Allocation of Steelton Revenue Requirement to Other Water Operations

1. In its initial filing, PAWC proposed a 40% increase over Rate Years 1 and 2 for Steelton water customers consistent with its commitment in the Steelton acquisition settlement to propose rates equal to the lower of cost of service or 1.4 times existing Steelton rates in the first post closing base rate case.[149]

2. Under the Settlement, approximately $1.3 million (Step 1) and $1.2 million (Step 2) of the Steelton revenue requirement would be allocated to the cost of service of the Company's other water operations in lieu of the $1.8 million (RY1) and $1.4 million (RY2) PAWC originally proposed.[150]

3. OCA recommended that the PUC require PAWC investors to provide a subsidy of $850,000 because PAWC acquired the Steelton water system pursuant to a PUC order of approval under Section 1329.[151]

4. Allocation of a portion of the Steelton revenue requirement to PAWC shareholders would result in unconstitutional, confiscatory rates.

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[148] *Bluefield Water Works and Improvement Co. v. Pub. Serv. Comm'n of West Virginia,* 262 U.S. 679 (1923); *Fed. Power Comm'n v. Hope Natural Gas Co.,* 320 U.S. 591 (1944); *Keystone Water Co. v. Pa. Pub. Util. Comm'n,* 477 Pa. 594, 607, 385 A.2d 946, 953 (1978).
[149] PAWC St. 4, pp. 32-33; PAWC St. 12, p. 37.
[150] *See* Appendix to PAWC's Main Brief (Revised Summary of Proof of Revenues).
[151] OCA St. 1, p. 70.

E. Separate Stormwater Rate

1. OCA witness Rubin recommended an "across-the-board" rate increase for customers served by the Scranton, McKeesport and Kane combined systems and that PAWC propose a separate stormwater rate for CSS operations in the Company's next rate case. [152]

2. In support of his proposals, Mr. Rubin contended that collecting stormwater costs based on water consumption or number of customers, regardless of a property's actual contribution stormwater inflow, is unfair and inconsistent with cost causation principles.

3. As part of the Settlement, the Company has agreed to propose potential recovery and rate methodology options for stormwater costs of combined sewer systems in its next base rate filing. The proposals will include an analysis of the recovery of such stormwater costs through various methodologies including forms of separate stormwater rates, and a description of the customers to whom the rates would apply.[153]

4. The Settlement addresses Mr. Rubin's concerns regarding the allocation of stormwater costs in PAWC's CSS rate zones.

5. PAWC is entitled to implement rates designed to produce an increase in annual operating revenues

XII. RECOMMENDATIONS FOR ACTIONS RELATED TO THE COVID-19 EMERGENCY

1. PA witness Miller suggested several actions that Company could undertake to defray the economic impact of the COVID-19 emergency including waiving reconnection fees for at least twelve months following a final Commission Order in this proceeding, simplifying income

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[152] OCA St. 1, pp. 41-49, pp. 49-50, 87-89 and 91-93.
[153] Joint Petition, ¶71 e.

verification requirements for the Company's Dollar Energy Hardship Fund until after the COVID-19 emergency subsides, considering expanding the maximum grant amount available under the Hardship Fund (currently $500), working with a new low-income advisory group that would, *inter alia*, seek to help low income customers avoid termination and remain in customer assistance programs, conducting a comprehensive third-party needs assessment to assess low-income communities within the PAWC service territory, and expanding community outreach to ensure the most at-need communities were receiving sufficient assistance.[154]

2. The Company agreed to undertake several actions to address CAUSE-PA's suggestions.

3. The Company will waive reconnection fees for customers at or below 200% of the Federal Poverty Level ("FPL") for one year from the date of the final Order in this proceeding.[155]

4. The Company agreed to waive the good faith payment requirement for PAWC's H2O Help to Others ("H2O") Hardship Fund for one year from the date of the final Order in this proceeding.[156]

5. The Company agreed to permit customers to self-certify income for purposes of qualifying for the PAWC's H2O Help to Others Hardship Fund until the earlier of (i) March 31, 2021; or (ii) the date on which Governor Wolf's March 6, 2020 COVID-19 emergency Executive Order is rescinded.[157]

6. The Company agreed to expand community outreach to communities in need within its service territory, including developing a community outreach plan to target communities significantly impacted as a result of the COVID-19 emergency.[158]

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[154] *See* CAUSE-PA St. 1, pp. 44-45; 67-71.
[155] Joint Petition ¶ 34; CEO Stip. ¶ 1.
[156] Joint Petition ¶ 35; CEO Stip. ¶ 2. *See also* PAWC St. 17-R, p. 22.
[157] Joint Petition ¶ 36; CEO Stip. ¶ 3.
[158] Joint Petition ¶ 37; CEO Stip. ¶ 4.

7. The Company agreed to increase its annual contribution to its H2O Help to Others Program from its current levels of $400,000 for water operations and $50,000 for wastewater operations to $500,000 and $100,000, respectively.[159]

8. The Company agreed that COVID-19 related financial impacts will be deferred and a regulatory asset established consistent with the Commission's final Order on the Company's petition filed on October 15, 2020.[160]

9. The Company agreed to increase its efforts to identify new sources of H2O grant funding.[161]

10. The measures agreed to by the Company are reasonable.

11. Mr. Miller also recommended that the Company be required to conduct a third-party needs assessment to assess low income communities within the Company's service territory.[162]

12. The third party assessment suggested by Mr. Miller would require several analyses in varied locations given the varied demographic characteristics across the Company's service territory which would be time-consuming and a significant cost to ratepayers.[163]

13. The third-party needs assessment is not necessary, is not necessitated by any Commission requirement, and its scope, cost, and complexity outweigh the potential benefits such assessment might yield.

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159 Joint Petition ¶ 38; CEO Stip. ¶ 5.

160 Joint Petition ¶ 39. *See also Petition of Pennsylvania-American Water Company for Authorization to Defer, and Record as Regulatory Assets for Future Recovery: (1) Incremental Expenses Incurred Because of the Effects of the COVID-19 Emergency; (2) Revenue Reductions Attributable to the Effects of the COVID-19 Emergency; and (3)Carrying Charges on the Amounts Deferred* (October 15, 2020).

161 PAWC St. 17-R, p. 24.

162 CAUSE-PA St. 1, p. 45.

163 PAWC St. 1-R, 82.

XIII. LOW-INCOME CUSTOMER ASSISTANCE

1. The Company's low-income program currently consists of (i) an 85% reduction in the Company's service charge for water customers at or below 150% of the FPL; (ii) a 20% bill discount for wastewater customers at or below 150% of the FPL; (iii) grants of up to $500 per year for water and wastewater customers; and (iv) the provision of water-saving device kits and educational programming.[164]

2. The Company's low income programs are collectively referred to as the "Help to Others Program" or "H2O Program."

3. The Company proposed granting low-income customers an additional 10% discount off the volumetric portion of their water bill, and increasing the 20% total wastewater bill discount to 30%.[165]

A. H2O Discount Program Design

1. OCA witness Colton recommended that PAWC incorporate an arrearage management program in its low-income bill discount program. Mr Colton stated that PAWC should be required to present its proposed arrearage program to the Commission for review and approval within six months after a final order in this proceeding.[166]

2. CAUSE-PA witness Miller recommended that PAWC incorporate an arrearage management program in its low-income bill discount program. Mr. Miller recommended that the arrearage program should be implemented no later than the effective date of new rates in this proceeding.[167]

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[164] *See id.*; PAWC St. 4, p. 46; PAWC St. 17-R, p. 3.
[165] PAWC St. 4, pp. 46-47.
[166] OCA St. 4, pp. 4, 29-30, 34-39.
[167] CAUSE-PA. St. 1, p. 63.

3. Implementing an arrearage program would be incredibly difficult for the Company since its current billing systems are not equipped to timely collect the data that would be necessary.[168]

4. However, the Company has agreed that, no later than six months after a final order in this proceeding, it will present an arrearage management plan to the Commission for review and approval, which will be designed through a multi-party stakeholder consultative process, with the participation of the Commission's Bureau of Consumer Services ("BCS").[169]

5. Mr. Miller recommend that the Company should offer tiered discounts. Mr. Colton proposed that the Company retain its current discount for customers at or above 100% of the FPL, and provide modified discounts to customers between 50% to 100% of the FPL, and below 50% of the FPL.[170]

6. Mr. Colton recommended that the Company should offer tiered discounts. Mr. Miller recommend that the Company adjust its discount to target affordability at 2%, 2.5%, and 3% of household incomes for those customers below 50% of the FPL, between 50% and 100% of the FPL, and between 100% to 150% of the FPL, respectively.[171]

7. CEO witness Brady recommended that the Company increase its low-income discount for water service to 90% of the service charge and 15% of the usage charge.[172]

8. The Company is not capable of implementing a tiered discount program since it does not currently have the information that would be needed to accurately incorporate a tiered bill discount into its bill analysis.[173] The Company does not have a mechanism in place to ask

[168] PAWC St. 4-R, p. 17.
[169] CEO Stip. ¶ 11.
[170] OCA St. 4, pp. 4, 24-25.
[171] CAUSE-PA St. 1, p. 63.
[172] CEO St. 1, p. 7.
[173] *Id.*

participants to update their income information does not maintain adequate information to categorize customers into tiers.[174]

9. The Company's proposed discounts are reasonable and tiered discounts are not required.

B. Hardship Fund

1. CEO witness Brady recommended that PAWC increase its annual contribution to its Dollar Energy Hardship fund (i.e., the H2O Help to Others hardship grant program) from $400,000 to $500,000.[175]

2. The Company committed to increasing its annual contribution to the H2O Help to Others grant program from its current level of $400,000 to $500,000 for water operations and from $50,000 to $100,000 for wastewater operations.[176]

C. Low-Income Customer Outreach, Data Collection and Reporting

1. OCA witness Colton recommended that the Commission direct the Company to budget $50,000 to hire an expert consultant to develop, within 12 months of a final Order in this proceeding, a "grass roots, boots-on-the-ground" outreach plan to identify and enroll eligible low-income customers in the Company's bill discount program.[177]

2. The Company already has extensive outreach to its customers and the communities it serves through participation in consumer education and local community events, Dollar Energy Fund outreach, and the Company's extensive work with and through community-based organizations.[178]

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[174] *Id.*
[175] CEO St. 1, p. 7.
[176] Joint Petition ¶ 38; CEO Stip. ¶ 5.
[177] OCA St. 4, pp. 4, 68-69.
[178] PAWC St. 17-R, p. 3.

3. The Company directly communicates with customers on a regular basis through bill inserts, email campaigns, and social media.[179]

4. Customers can also freely communicate with the Company by phone and obtain low-income program information from the Company's website or through the Commission.[180]

5. The Company maintains a dedicated internal position responsible for customer outreach and communications relative to its low-income programs.[181]

6. The Company's current outreach and enrollment efforts are satisfactory. The Company is not required to budget for or hire an expert consultant to identify and enroll eligible low-income customers in the Company's bill discount program.

7. The Company accepted several of CAUSE-PA witness Miller's recommendations relative to the Company's data collection, outreach, and reporting efforts.[182]

8. The Company agreed to expand community outreach to communities in need within the Company's service territory. This includes developing a community outreach plan to target communities significantly impacted as a result of the COVID-19 emergency, and working through a newly-formed low-income advisory group to seek input from interested parties and stakeholders to target areas with the most need. The outreach plan will include an overall strategy and tactics to educate and enroll eligible and interested customers at or below 50% of the FPL.[183]

9. The Company agreed to enhance its training materials and call scripts to specifically address how customers who call PAWC and the Customer Service Center indicating that they are

[179] *Id.*, p. 4.
[180] *Id.*
[181] *Id.*, p. 8.
[182] *See* CAUSE-PA St. 1, pp. 51-52.
[183] Joint Petition ¶ 37.

having trouble paying their bills or are seeking financial assistance are directed to PAWC's customer assistance programs.[184]

10. The Company agreed to, within ninety days of a final Order in this proceeding, establish a low-income advisory group to include community-based organizations within the Company's service territory, a representative from BCS, and other interested stakeholders and interested parties in this case for the purpose of soliciting input to enhance the H2O Help to Others Program.[185]

11. The Company agreed to develop a process for program data collection and reporting to better count low income customers, regardless of how that information is provided, which will include tracking new metrics such as the reason a customer left the H2O Help to Others bill discount program, consistent monthly data related to low income arrearages by rate zone, consistent monthly data related to low income terminations by rate zone, and the number of "confirmed" low income customers for whom the Company has confirmed are at or below 150% of the FPL.[186]

12. The Company's current outreach and enrollment efforts, and the further efforts agreed to by the Company, are reasonable. The Company is not required to budget for or hire an expert consultant to identify and enroll eligible low-income customers in the Company's bill discount program.

D. Comprehensive Universal Service Plan

1. CAUSE-PA witness Miller recommended that the Company be instructed to file a Petition with the Commission for review and approval of a Universal Service Plan ("USP") for

[184] *Id.*, ¶ 41. *See also* CEO Stip. ¶ 7.
[185] Joint Petition ¶ 43; CEO Stip. ¶ 9.
[186] CEO Stip. ¶ 10.

the H2O program within one year of the effective day of rates in this proceeding, and then file for approval of a revised USP every five years thereafter.[187]

2. Mr. Miller acknowledges that the Company has policies and procedure related to its low income programs.[188]

3. The experience of the Commonwealth's electric and gas utilities has shown that USPs typically evolve over time after extensive Commission consideration of different approaches and the evaluation of stakeholder collaboratives.[189]

4. The Company is not required to file for Commission approval of a USP at this time.

E. Winter Shut-Off Moratorium

1. CAUSE-PA witness Miller recommended that the Company (1) begin to track its low income customers who are protected from termination as a result of the winter moratorium and (2) extend the protection from termination offered pursuant to the winter moratorium not only to customers using water for heating but rather to all of the Company's water and wastewater customers with household incomes at or below 250% of the FPL.[190]

2. The Company agreed to begin tracking low-income customers protected from winter moratorium termination as provided for under 52 Pa. Code §§ 56.100(a) and 56.251.[191]

3. The agreed-upon tracking efforts are reasonable.

4. 66 Pa. C.S. § 1406(e)(1) prohibits electric and natural gas utilities from terminating service to customers with household incomes at or below 250% of the FPL between November 30 and April 1.

[187] CAUSE-PA St. 1, pp. 48-49.
[188] *Id.*, p. 48.
[189] PAWC St. 14-R, p. 33.
[190] CAUSE-PA St. 1, pp. 66-67.
[191] Joint Petition ¶ 45.

5. The Commission, by regulation, extended the statutory winter moratorium from electric and natural gas utilities to water distribution utilities providing heat related services to customers (between December 1 and March 31).[192]

6. Neither the General Assembly nor the Commission sought to apply the winter moratorium to all water and wastewater customers.

7. The Company is not required to extend the protection from termination offered pursuant to the winter moratorium to all of the Company's water and wastewater customers with household incomes at or below 250% of the FPL, as doing so would be *ultra vires*.

XIV. SERVICE QUALITY AND CUSTOMER SERVICE ISSUES

A. Customer Performance Service Standards

1. OCA witness Alexander propose that, as a condition for approval of any rate increase, and prior to considering any MYRP in the future, the Company be required to meet certain performance standards.[193]

2. The proposed performance standards are for call center annual average speed of answer, call center annual abandonment rate, average monthly response time for leans (damage), frequency of main breaks, kept field appointments, justified complaints (per 1,000 customers), complaint infractions, response time to BCS complaints, and customer billing inquiries.[194]

3. The standards suggested by Ms. Alexander are based on a mixture of the Company's current performance metrics, "Pennsylvania typical performance," "improvement required," and "PAWC objective."[195]

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[192] *See* 52 Pa. Code §56.100(a).
[193] OCA St. 5, pp. 29-31.
[194] *Id.*, p. 30.
[195] *Id. See also* OCA St. 5SR, p. 6.

4. The standards suggested by Ms. Alexander are arbitrary, not founded upon any Commission requirement, and shall not be imposed on the Company.

B. Call Centers

1. Service Company's customer service center ("CSC") is the primary point of contact for the Company's customers to contact the Company on matters such as service, address, billing, and collections issues.[196]

2. The Company is served by customer service representatives ("CSRs") located at two Service Company CSC call center locations – one in Illinois and one in Florida – and two call centers operated by third parties – one in Kentucky and one in Tennessee.[197]

3. OCA witness Alexander recommended that the Company be required to take steps to improve the monthly performance of its call centers.

4. The CSC's call centers are appropriately staffed to provide appropriate service over the year that balance's customer's needs and cost levels.[198]

5. The CSC call centers provide adequate service and shall not be required to comply with the standards suggested by Ms. Alexander.

6. Ms. Alexander also recommended that the Company be required to audit its third-party operated CSC call centers to ensure that they are complying with Pennsylvania requirements.[199]

7. The CSC's third-party operated call centers are required to comply with all Pennsylvania requirements, its CSRs receive the same Pennsylvania-specific training as the CSRs located in

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[196] OCA St. 18-R, p. 3.
[197] *Id.*
[198] PAWC St. 18-R, p. 9.
[199] OCA St. 5SR, pp. 4-5.

the CSC's Service Company operated call centers, and the Company monitors the performance levels of the third-party call centers on a daily basis.[200]

8. The Company's current oversight of CSC third-party operated call centers is adequate and further audits are not required.

C. Customer Complaints

1. OCA witness Alexander recommended that the Company be required to submit a quarterly analysis, to BCS, of the Company's complaint trends. identifying the root cause of complaints, and documenting the steps taken by the Company to respond to such complaints.[201]

2. The Company reports performance in its Utility Consumer Activities Report and Evaluation ("UCARE") on a quarterly basis.[202]

3. The Company also participates in the BCS' Customer & Utility Resolution Effort ("CURE") program to resolve customer complaints after they have been filed with BCS.[203]

4. The Company shall not be required to submit quarterly analyses to BCS.

D. Customer Satisfaction Surveys

1. OCA witness Alexander recommended that the Company develop a program of routine customer satisfaction surveys that conform to the methodology utilized by Pennsylvania's electric and gas utilities.[204]

2. Ms. Alexander acknowledges that the Company already conducts routine customer satisfaction surveys of customers and measures customer satisfaction.[205]

3. The Company's current efforts to measure customer satisfaction are reasonable.

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[200] *Id.*, pp. 11-15; Tr. 805:2-806:10.
[201] OCA St. 5, p. 28.
[202] PAWC St. 17-R, p. 12.
[203] *Id.*
[204] OCA St. 5, p. 28.
[205] *Id.*, p. 18.

E. Training on Termination of Service

1. OCA witness Alexander recommended that the Company expand its training materials related to termination of service.[206]

2. The Company agreed to review and revise its training documents to include additional scenarios and written instructions for (1) an allegation of a pending dispute or complaint; and (2) and allegation of a PFA Order or a court order that shows evidence of domestic violence.[207]

3. Ms. Alexander also recommended that the Company train its field representatives "to detect conditions that would result in danger or harm to those at the residence at the time of termination of essential water service, which in some cases, is relied upon for home heating."[208]

4. The Company explained that "if field representatives encounter circumstances not specifically identified in the law or PUC regulation, they are instructed to contact their supervisor and/or business performance team members before terminating service," and Ms. Alexander stated that she agrees with this overall approach.[209]

5. The training document revisions agreed to by the Company are reasonable. It would be unreasonable to require the Company to train its field representatives to detect conditions that would result in danger or harm to those at the residence at the time of termination of essential water service.

F. Pressure Surveys and Pressures

1. OCA witness Fought recommended that if the Company elects to provider higher than 125 psi static pressure to serve some customers in order to serve other customers, the Company

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[206] OCA St. 5, pp. 17-18.
[207] PAWC St. 17-R, p. 14.
[208] OCA St. 5, p.18.
[209] *See* PAWC Response to OCA-XX-III-4; OCA St. 5, p. 11.

should be required to either provide a pressure reducer protecting the customer's line or an insurance policy covering the repair or replacement of the customer's service line.[210]

2. The Company is permitted to "undertake to furnish a service which does not comply with [normal operating pressures between 25 psi and 125 psi] where compliance with such specifications would prevent it from furnishing service to any other customer or where called for by good engineering practices."[211]

3. The Company's distribution system traverses challenging terrain and elevation changes.[212]

4. There are circumstances, such as providing service to high elevation areas, that sometimes demand providing service in excess of 125 psi.[213]

5. In such cases, the Company's Commission-approved tariff states that the customer is required to provide the installation and maintenance of a pressure regulator on their service line.[214]

6. The Company provides service in compliance with law and Commission requirements. If the Company elects to provider higher than 125 psi static pressure to serve some customers in order to serve other customers, it shall not be required to provide a pressure reducer protecting the customer's line or an insurance policy covering the repair or replacement of the customer's service line.

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[210] OCA St. 6, p. 6.
[211] 52 Pa. Code § 65.6.
[212] PAWC St. 3-R, p. 12.
[213] *Id.*
[214] *Id.*, p. 11.

G. Main Extensions

1. OCA witness Fought recommended that the Company consider funding main extensions for two areas in Washington County pursuant to Rule 27.1(F) of the Company's water tariff– "Area 1" comprised of 51 Ullom Road, Washington, PA and "Area 2" comprised of 216 Campbell Road and 9812 Old Steubinville Pike, Bulger, PA.[215]

2. The proposed extensions would be 1,500 feet, 1,600 feet, and 1,100 feet in length, respectively. The proposed extensions would serve 1 potential customer, 1 potential customer, and 2 potential customers, respectively. The proposed extensions would cost $225,000, $205,000, and $235,000, respectively.[216]

3. 9812 Old Steubinville Pike, Bulger, PA is outside of the Company's service territory.[217]

4. The proposed length of the extensions and the fact they would only serve one or two customers could present water quality degradation issues at the customers' taps due to the long water age in the proposed main.[218]

5. The requested Company investment per residency is much higher than the Company is required to invest under Tariff Rule 27.1.[219]

6. OCA has not shown, and the Company has no reason to believe, that the potential customers had any issues with groundwater pollution prior to the events alleged against National Fuel Gas Supply Corporation and Southeast Directional Drilling by the Pennsylvania Office of Attorney General or the 35th Investigating Statewide Grand Jury.[220]

[215] OCA St. 6, pp. 6-8.
[216] PAWC St. 3-R, p. 13.
[217] *Id.*
[218] *Id.*, p. 14.
[219] *Id.*
[220] *Id.*

7. The Company has agreed to provide the Office of Attorney General with engineering reports and cost estimates to run water line extensions to all impacted residents who might want to disconnect from their polluted wells and connect to PAWC's system, and the Company has sent letters to National Fuel Gas Supply Corporation and Southeast Directional Drilling explaining that neither the residents at Area 1 and Area 2, PAWC, its shareholders, or ratepayers should be responsible for funding the cost of a water line extension for residents with polluted groundwater, and that the party (or parties) responsible for the groundwater contamination should fund the full cost of the water line extensions necessary to supply the residents with clean water.[221]

H. Sewage Backups

1. The limitation of liability section of the Company's tariff provides that, among other things, the Company shall not be liable to customers or third parties for losses or damages involving an "act of God."[222]

2. OCA witness Fought asserted that the Company should define what storm frequencies constitute an "Act of God" and an "Act of Nature" for which the Company would not be liable.[223]

3. The frequency and severity of storms and other acts of nature and God are unknowable to the Company – they are considered "acts of God" because they are beyond the realm of foreseeability or control.

4. Events, such as storms, must be evaluated on an individual basis as to whether they constitute an "Act of God" or "Act of Nature."

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[221] *Id.*
[222] *See* Water Tariff Section 15; Wastewater Tariff Section Q.
[223] OCA St. 6SR, p. 5.

5. Mr. Fought's recommendation should be rejected.

I. Tenant Issues and Protections

1. CAUSE-PA witness Vitek suggested that the Company take steps to improve its procedures and training related service addresses that are reasonably likely to be tenant occupied, and proposed recommendations related to the Company's compliance with the Discontinuation of Services to Leased Premises Act ("DSLPA").[224]

2. The Company agreed to revise its policies, procedures, and associated training materials relative to the DSLPA.[225]

3. The Company agreed to revise its 10-day, 3-day, and 48-hour termination notices to include reference to and explanation of the DSLPA.[226]

4. The Company agreed to prepare a bill insert to inform landlords of their obligation to notify the Company a premise is occupied by a tenant. The Company agreed to share a draft of the bill insert with its newly-formed low-income advisory group for input and feedback.[227]

5. That Company agreed that within 60 days of a final order in this proceeding, PAWC will create and implement a standard form that a landlord will submit, with a notarized signature, swearing under penalty of law that the unit is unoccupied, that will be used when a landlord requests voluntary discontinuance of service. PAWC will modify internal policies to incorporate all the voluntary discontinuance requirements of the DSLPA.[228]

6. The Company agreed to ask all applicants for service whether the property is or will be occupied by a tenant.[229]

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[224] *See* CAUSE-PA St. 2, pp. 27-29.
[225] Joint Petition ¶ 49.
[226] CAUSE-PA Stip. ¶ 1.
[227] *Id.*, ¶ 2.
[228] *Id.*, ¶ 3.
[229] *Id.*, ¶ 4.

7. The Company agreed to accept a driver's license, photo identification, medical assistance or food stamp identification or any similar document issued by any public agency, which contains the name and address of the tenant, as acceptable identification to establish tenancy for purposes of the DSLPA.[230]

8. The Company agreed to utilize the procedures under 66 Pa. C.S. § 1532 to require landlord ratepayers to provide the names and addresses of tenants of dwelling units and will notify those tenants of any impending termination in accordance with the DLSPA.[231]

9. The Company agreed to revise its policies and procedures so that PAWC will immediately restore service and provide affected tenants with the requisite 30-day notice and the opportunity to exercise their rights under DSLPA whenever: (1) PAWC disconnects or terminates service to a landlord ratepayer premise at the request of a landlord ratepayer and later determines the unit is tenant occupied or (2) PAWC disconnects or terminates service to a tenant occupied landlord ratepayer unit due to nonpayment by the landlord ratepayer without first serving the 30-day tenant notice.[232]

10. The Company agreed to extending the Chapter 14 and 56 protections for customers with PFAs or similar court order to tenants who exercise their right to continued service under DSLPA.[233]

11. The Company agreed to revise its policies, procedures, and associated training materials: (a) to indicate that, if PAWC terminates service to tenant occupied landlord ratepayer units without providing correct notice under the DSLPA, PAWC will restore service, deliver the required notices. and provide the time required under DSLPA for the tenant to make payment;

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[230] *Id.*, ¶ 5.
[231] *Id.*, ¶ 6.
[232] *Id.*, ¶ 7.
[233] *Id.*, ¶ 8.

(b) to incorporate the voluntary discountenance requirements of the DSLPA; and (c) to ensure that tenants are not required to appear in person to demonstrate tenancy or exercise their rights under the DSLPA.[234]

12. Mr. Vitek has also proposed the Company should comply with additional provisions with respect to the Water Services Act ("WSA")[235] and Utility Services Tenants Rights Act ("USTRA")[236] when terminating service to customers of an unregulated sewer authority.[237]

13. The Company has a process in place to ensure that municipal authorities comply with WSA termination requirements.[238]

14. The Company is in the process of revising its procedures for municipal shut-off requests under the WSA, which will include processes to ensure compliance with the USTRA.[239]

15. The measures the Company agreed to relative to tenant issues and protection are reasonable.

J. Language Access

1. CAUSE-PA witness Vitek made several recommendations related to the Company's policies, procedures, and training requirements related to language access.[240]

2. The Company agreed to conduct a formal needs assessment to determine whether any of its water or wastewater zones are populated by 5% or more of individuals who speak a language other than English or Spanish. If so, the Company will comply with the Commission's regulations at 52 Pa. Code § 56.19(b)(17) with respect to that group.[241]

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[234] *Id.*, ¶ 9.
[235] *See* 53 P.S. § 3102.101 *et seq.*.
[236] *See* 53 P.S. § 502(c), 68 Pa. C.S. § 399.3-7.
[237] CAUSE-PA St. 2, pp.17-19.
[238] PAWC St. 17-R, pp. 34-35.
[239] *Id.*, pp. 35-36.
[240] *See* CAUSE-PA St. 2, pp. 27-29.
[241] Joint Petition¶ 57; CAUSE-PA Stip. ¶ 8.

3. The Company agreed to continue its review of customer communication materials and modify as necessary for compliance with Commission regulations at 52 Pa. Code § 56.201(b).[242]

4. The Company agreed to provide written documents to customers in Spanish, if requested.[243]

5. That Company agreed that, if a customer calls the CSR and requests correspondence in Spanish, the Company will code the system to automatically generate all customer correspondence going forward for that customer in Spanish.[244]

6. The Company agreed to translate billing information into Spanish in compliance with 52 Pa. Code § 56.201(b), and present the revised billing information to the low-income advisory group in advance of implementation to consider feedback from the group.[245]

7. The Company agreed to modify its termination notices to include information in Spanish directing Spanish-speaking customers to a number to call for information and translation assistance. The Spanish language section of all termination notices will highlight that the document is a termination notice.[246]

8. The Company agreed to revise its policies and procedures so its CSRs will contact a third-party interpreter upon encountering a customer with limited English proficiency.[247]

9. The Company agreed to develop a language access plan within 180 days of a final order in this proceeding.[248]

10. The measures the Company agreed to relative to language access are reasonable.

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[242] CAUSE-PA Stip. ¶ 1.
[243] *Id.*, ¶ 2.
[244] *Id.*, ¶ 3.
[245] *Id.*, ¶ 4.
[246] *Id.*, ¶ 5.
[247] *Id.*, ¶ 6.
[248] *Id.*, ¶ 7.

K. Protection for Victims of Domestic Violence

1. CAUSE-PA witness Lewis made several recommendations related to the Company's policies, procedures, and training materials concerning victims of domestic violence.[249]

2. The Company agreed to develop written policies and procedures related to domestic violence issues, which will include guidelines for reviewing other court orders that qualify for Chapter 56 protections, and will consult the Pennsylvania Coalition Against Domestic Violence ("PCADV") and the low-income advisory group in developing such policies and procedures.[250]

3. The Company agreed to implement specific domestic abuse training for its Compliance and Customer Advocacy teams, in consultation with PCADV.[251]

4. The Company agreed to implement training for CSRs to increase their knowledge about the availability of additional protections for victims of domestic violence and actively screen for, and identify, customers who may be exempt from Ch. 14 of the Code. Such training documents will be developed in consultation with PCADV.[252]

5. The Company agreed to develop scripts for CSRs to use when screening for potential domestic violence victims and for explaining the protections available to customers with protection from abuse order ("PFA") and similar court orders.[253]

6. The Company agreed to develop scripts and written guidance for its Compliance and Customer Advocacy teams to use when communicating with victims of domestic violence.[254]

7. The Company agreed to conduct a review of its confidential procedures for information of customers with PFAs and similar court orders and, if necessary, enhance its confidentiality

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[249] *See* CAUSE-PA St. 3, pp. 33-36.
[250] Joint Petition ¶ 58; CAUSE-PA Stip. ¶¶ 9-10.
[251] Joint Petition ¶ 59; CAUSE-PA Stip. ¶ 11.
[252] Joint Petition ¶ 60; CAUSE-PA Stip. ¶ 12.
[253] Joint Petition ¶ 61; CAUSE-PA Stip. ¶ 13.
[254] Joint Petition ¶ 62; CAUSE-PA Stip. ¶ 14.

protections, including against access by a third party who is currently listed or was previously listed on the customer account.[255]

8. The Company agreed to ensure training documents highlight the need for extra confidentiality protections for customers with PFAs and similar court orders.[256]

9. The Company agreed to establish a dedicated group of individual from the Compliance and Customer Advocacy teams, who will be responsible for consulting and communicating with customers with PFAs and similar court orders.[257]

10. The Company agreed to establish a dedicated email address and fax for the submission of PFAs and applicable court orders, which will only be accessible to a limited number of Company employees.[258]

11. The Company agreed to develop a fact sheet and other outreach materials that prominently highlight protections available to customers with PFA orders or other court orders with clear evidence of domestic violence. The Company will share a draft of these materials with its low-income advisory group for input and feedback.[259]

12. The Company will review and revise its training documents regarding attempting to make personal contact at terminating to include additional scenarios and written instructions for (1) an allegation of a pending dispute or complaint; and (2) an allegation of a PFA or other court order that shows evidence of domestic violence.[260]

13. The measures the Company agreed to relative to protection for victims of domestic violence are reasonable.

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[255] Joint Petition ¶ 63; CAUSE-PA Stip. ¶ 15.
[256] Joint Petition ¶ 64; CAUSE-PA Stip. ¶ 16.
[257] Joint Petition ¶ 65; CAUSE-PA Stip. ¶ 17.
[258] Joint Petition ¶ 66; CAUSE-PA Stip. ¶ 18.
[259] Joint Petition ¶ 67; CAUSE-PA Stip. ¶ 19.
[260] CAUSE-PA Stip. ¶ 20.

XV. TARIFF CHANGES

A. Limitation of Liability

1. PAWC proposes updating its limitation of liability tariff provisions to: (1) harmonize its water and wastewater tariffs;[261] (2) limit liability for interruptions in service comparable to provisions in other companies' water tariffs consistent with the PUC's Statement of Policy at 52 Pa. Code § 69.87 ("Policy Statement"); (3) clarify that PAWC is not an insurer and has not undertaken to prevent injury from fire;[262] and (4) add a paragraph on customer indemnification based on similar provisions in other utilities' tariffs. [263]

2. A number of the provisions PAWC proposes adding to its tariffs are based on provisions in other utilities' PUC-approved tariffs.[264] Judicial notice should be take of the limitation of liability provisions in the tariffs of Aqua Pennsylvania, Inc. ("Aqua") (Supplement No. 7 to Tariff Water-PA PUC No. 2, Rule 51, p. 51) and Aqua Pennsylvania Wastewater, Inc. (Supplement No. 4 to Tariff Sewer-PA PUC No. 2, Liability for Damages Section, p. 25); SUEZ Water Pennsylvania Inc. ("SWPA") (Supplement No. 58 to Water—PA PUC No. 7, Interruption and Discontinuance of Service Section (a)(5), p. 46 and Liability Section, p. 56; Supplement No. 2 to Tariff Wastewater PA-PUC No. 2, Interruption and Discontinuance of Service Section (A)(5) and (C) pp. 49 and 51); and The York Water Company ("York Water") (Supplement No. 136 to Water-PA PUC No. 14, Rule 7.1 p. 29; Supplement No. 11 to Wastewater—PA PUC No. 1, Rule H.2, p. 24).

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[261] PAWC St. No. 4-R p. 18.

[262] This provision is intended to prevent parties from suing PAWC based on claims that water supply or water pressure is inadequate to fight a fire and is similar to PUC-approved language in the tariff of York Water (Rule 7.1).

[263] *See* UGI Utilities – Electric Division, Pa. PUC Tariff No. 6, Rule 1-d: "The Customer will indemnify, defend and hold harmless the Company against all claims, demands, costs or expenses for loss, damage or injury to person or property in any manner either directly or indirectly connected with or growing out of the supply or use of electric by the Customer at or on the Customer's side of the point of delivery."

[264] *See* 52 Pa. Code § 69.87.

3. No party has challenged the principal aspects of PAWC's proposal.

4. The OCA only opposes the Company's proposed liability limitation for some negligent, reckless or intentional acts.[265]

5. OCA's opposition lacks merit for several reasons.

6. The OCA's position is inconsistent with the Policy Statement adopted by the PUC that rejected a prohibition on limiting utilities' liability for injury or damages from negligent or intentional torts.[266]

7. The OCA overlooks Rule 15.1 of PAWC's existing PUC-approved water tariff, which already includes a broad limitation of liability for negligent acts.[267]

8. The OCA erroneously contends that PAWC's proposal would "eliminate any liability" for PAWC.[268]

9. PAWC's proposal is not an exculpatory clause.[269]

10. PAWC's proposal would limit liability only in specific situations beyond PAWC's control (e.g., acts of God, damage caused by a break of the customer's service line or other facility not owned by the Company, or damage caused by a plumber or developer).[270] Limiting PAWC's liability in these situations is just and reasonable.

11. Other Commission-approved tariffs limit the utility's liability for damage caused by negligent, reckless and intentional acts.[271]

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[265] OCA St. 5, pp. 22-23; OCA St. 5-R, pp. 18-19.
[266] *Tariff Provisions That Limit the Liability of Utilities for Injury or Damage as a Result of Negligence or Intentional Torts,* Docket Nos. M-00960882, M-00981209 (Order entered November 19, 1998). *See Behrend v. Bell Tele. Co.,* 242 Pa. Super. 47, 363 A.2d 1152 (1976), vacated on other grounds, 473 Pa. 320, 374 A.2d 536 (1977).
[267] PAWC St. 4-R, pp. 20-21.
[268] OCA St. 5 p. 22.
[269] PAWC St. 4-R, pp. 21-23.
[270] *Id.*, pp. 20-22.
[271] *See* SWPA Supplement No. 46 to: Water-PA PUC No. 7, Section 30(A)(5) ("The Company shall not be liable *for any damage or inconvenience suffered by the customer, or for any claim* for interruption in service, lessening of supply inadequate pressure, poor quality of water, or any other cause.") (emphasis added); Aqua Water-PA PUC No. 2, Rule

12. PAWC's proposal improves upon the similar limitations of liability in other utility's tariffs because it is both more specific and more clearly stated.[272]

13. PAWC's proposal protects PAWC and its customers from plaintiffs seeking "deep pockets" that are increasingly targeting utilities.[273]

14. Without limitations on liability, utilities could be financially stressed by exorbitant damage claims, thus jeopardizing the continued provision of essential public services.[274]

15. Utilities should be protected by reasonable limitations of liability because of the critical public services that they provide.[275]

16. The OCA's opposition to the Company's proposed limitation on liability should be rejected.

B. Chapter 56 Customer Protections to Be Included in Tariff

1. OCA witness Alexander recommended that PAWC revise its tariff to include the essential consumer protections required by Chapter 56 of the Commission's regulations.[276]

2. The Company agreed to revise its tariff so that the Company's tariff will specifically address(1) the rights of certain vulnerable customers with a PFA; (2) the right to a payment arrangement with criteria for eligibility; (3) the obligation to issue a written denial of service that includes reasons for denial or payment of prior debt and dispute process; and (4) termination notice procedures.[277]

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51 ("Furthermore, the Company shall not be liable *in any action* where the loss or damage involves an act of God or does not involve a duty of the Company, ….") (emphasis added); PPL Electric Utilities Corporation Supplement No. 42, Electric Pa. PUC No. 201, Rule 4.F ("The Company uses reasonable diligence to preserve continuity of service, but in the event of interruption or curtailment of service, Company shall not be subject *to any liability, penalty or payment* for or on account of any such interruption or curtailment nor shall the application of the rate schedule to the regular billing period be affected.") (emphasis added).

[272] See PAWC St. 4-R, pp. 20-21.

[273] *Id.*, pp. 23-24.

[274] *Id.*, p. 23.

[275] *Id*.

[276] OCA St. 5, p. 29; OCA St. 5SR, p. 11

[277] Joint Petition ¶ 69.

3. The Company's proposed revisions are reasonable.

C. Align Tariff Language on Low-Income Customers with Actual Practice

1. OCA witness Colton recommended that the Company delete the following language from its water and wastewater tariffs with respect to customers receiving the Company's low-income discount: "To remain eligible for this rate, such customer must continually make timely payments on the discounted bills."

2. The Company agreed to remove this language from its tariff.[278]

3. The Company's proposal is reasonable.

XVI. CONCLUSIONS

1. The Joint Petition for Settlement entered into by the Company, I&E, PAWLUG, and AK Steel is reasonable, satisfies all applicable standards for approval of settlement established by the Commission and is hereby approved.

2. Following entry of the Commission's Opinion and Order, the Company may file the tariffs attached to the Joint Petition as Appendices A and B upon less than statutory notice to become effective for service rendered on and after January 28, 2021, or such earlier date as the Commission may determine.

3. The Stipulation entered into between the Company and CAUSE-PA dated October 29, 2020 is reasonable and is hereby approved.

4. The Stipulation entered into between the Company and CAUSE-PA dated November 9, 2020 is reasonable and is hereby approved.

5. The Stipulation entered into between the Company and CEO dated November 5, 2020 is reasonable and hereby is approved.

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[278] CEO Stip. ¶ 6.

PROPOSED CONCLUSIONS OF LAW

1. The Commission's policy regarding settlement is set forth in its regulation at 52 Pa. Code § 5.231 and its Policy Statement on Settlements at 52 Pa. Code § 69.401 . The aforementioned regulation provides that "it is the policy of the Commission to encourage settlements." The Policy Statement provides: "In the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding." *See also Pa. P.U.C. v. PECO Energy Co.,* Docket No. R-2018-3000164 (Final Opinion and Order entered Dec. 20, 2018) ("*PECO 2018 Rate Case Order*"), p. 15.

2. In order to approve a settlement, the Commission must determine that the proposed terms and conditions, viewed in the context of the settlement as a whole, are in the public interest. *See Pa. P.U.C. v. CS Water & Sewer Assoc*., 74 Pa. P.U.C. 767, 771 (1991); *Pa. P.U.C. v. Philadelphia Elec. Co*., 60 Pa. P.U.C. 1, 22 (1985).

3. The terms of the Settlement, as set forth in the Joint Petition, when viewed as a whole, are in the public interest and will allow the Company to implement just and reasonable rates designed to allow it to recover its prudently incurred costs and produce a fair return on the fair value of its property used and useful in furnishing public utility service, as is its entitlement under applicable legal and Constitutional standards. *Pa. P.U.C. v. Aqua Pennsylvania, Inc.,* Docket No. R-2009-2132019, 2010 Pa. PUC LEXIS 1808 at *22-24 (Final Order entered June 16, 2010) (quoting *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679 (1923)).

4. Based on the record evidence, PAWC has satisfied the burden of proof imposed by Section 315(a) of the Public Utility Code to establish by a preponderance of substantial evidence

that it is entitled to charge rates that will produce additional annual operating revenues of at least $70.5 million.

5. Rates established by the Commission, or any other utility regulatory authority, are not "just and reasonable" unless they are within the zone of reasonableness determined by reference to the costs a utility incurs to furnish public utility service and a return that satisfies applicable legal and Constitutional standards. *Permian Basin Area Rate Cases*, 390 U.S. 747, 770 (1968) ("any rate selected . . . *from* the broad zone of reasonableness . . . cannot be attacked as confiscatory.") (emphasis added).

6. The requirement of just and reasonable rates "confer[s] upon the regulatory body [the Commission] the power to make and apply policy concerning the appropriate *balance* between prices charged to utility customers and returns on capital to utility investors *consonant with constitutional protections* applicable to both." *Pennsylvania Electric Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 130, 133 (Pa. 1985) (quoting *Pa. Pub. Util. Comm'n v. Pennsylvania Gas and Water Co.*, 424 A.2d 1213, 1219 (1980) (emphasis original), *cert denied*, 454 U.S. 824 (1981)).

7. The Commission has the duty and the discretion to determine the proper balance between the interests of ratepayers and a utility's investors. Rates cannot be just and reasonable if they do not balance consumer and investor interests. The public interest is determined by a balancing of those interests without favoring either of them. *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

8. The position advocated by the OCA, the OSBA, CAUSE-PA and CEO that a utility can be denied an increase in revenues and rates based on general economic conditions is contrary to law, would constitute unlawful confiscation of utility property, would seriously imperil the

Company's ability to satisfy its statutorily imposed obligation to provide safe, reliable and reasonable service and, therefore, is rejected.

PROPOSED ORDERING PARAGRAPHS

IT IS ORDERED:

1. That PAWC is authorized to file the tariffs submitted as Appendices A and B to the Joint Petition containing rates designed to produce, on a total-Company basis, annualized increases in revenues in the amounts set forth in Appendix D to the Joint Petition, which reflect a base rate increase of $70.5 million to be implemented over two years with annualized credits as also set forth in Appendix D to the Joint Petition.

2. That the changes in rules, regulations and terms of service set forth in the tariffs submitted as Appendices A and B to the Joint Petition are lawful, just and reasonable, and are also approved.

3. That the tariffs submitted as Appendices A and B to the Joint Petition may be filed on less than statutory notice and, pursuant to the provisions of 52 Pa. Code §§ 53.31 and 53.101 and the Commission's Order in this case entered August 20, 2020, may be filed to be effective for service rendered on and after January 28, 2021 or such earlier date as the Commission may determine.

4. That, if the Commission's Opinion and Order in this case is entered after January 28, 2021, PAWC shall be entitled to recover the additional revenues it would have billed between January 28, 2021 and the date of entry of the Commission's Opinion and Order under the rates approved by the Commission.

5. That the Complaints filed by the various parties to this proceeding are granted, denied or deemed satisfied, consistent with the terms of the Settlement and the Commission's Opinion and Order in this case.