

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2020-3019369 (Water)
Office of Consumer Advocate	:	C-2020-3019751
Office of Small Business Advocate	:	C-2020-3019767
Jessica and Jeffrey LaBarge	:	C-2020-3019627
Mr. and Mrs. Gerald S. Lepre, Jr.	:	C-2020-3019646
Victoria Lozinak	:	C-2020-3019778
Charles and Jennifer Spryn	:	C-2020-3019905
Cherise H. Sympton	:	C-2020-3020209
David Dollard	:	C-2020-3020219
Jan K. Vroman	:	C-2020-3020220
Pennsylvania-American Water Large User Group	:	C-2020-3020238
Anna-Maria Rucci	:	C-2020-3020245
West Norriton Township	:	C-2020-3020401
Andrew Wu	:	C-2020-3020497
Timothy Fuhrmann	:	C-2020-3020516
Terrence Reilley and Dorothy Reilley	:	C-2020-3020524
Ahmed Rashed	:	C-2020-3020546
Dennis Gore	:	C-2020-3020547
Bryan A. Stephen	:	C-2020-3020699
Sam Galdieri	:	C-2020-3020841
Robert D. and Maryann Reardon	:	C-2020-3020842
Maria Mocerì	:	C-2020-3020843
Dennis Sweigart	:	C-2020-3020845
Anne Leithiser	:	C-2020-3020846
Sharon Higinbotham	:	C-2020-3020851
Diane Vottero	:	C-2020-3020852
Linda C. Denby	:	C-2020-3020887
Michael Palin	:	C-2020-3020888
Ron Bair, Jr.	:	C-2020-3020889
Michael Andrews	:	C-2020-3020892
Thomas Blakely	:	C-2020-3020893
Pamela Blakely	:	C-2020-3020894
Shannon Haig	:	C-2020-3020933
Randy and Sandra McKinley	:	C-2020-3020934
Timothy Peter Walsh	:	C-2020-3020935
Andrew D. Sproat	:	C-2020-3020936
John Norton	:	C-2020-3020937
Christopher Visco	:	C-2020-3020938
Tom E. Will	:	C-2020-3020939
East Norriton Township	:	C-2020-3021060
Robert Redinger, Jr.	:	C-2020-3021167

Leroy James Watters, III	:	C-2020-3021380
Gregory and Catherine Gannon	:	C-2020-3021381
Paul Trizonis	:	C-2020-3022050

v.

Pennsylvania-American Water Company

Pennsylvania Public Utility Commission	:	R-2020-3019371 (Wastewater)
Office of Consumer Advocate	:	C-2020-3019754
Office of Small Business Advocate	:	C-2020-3019772
Jessica and Jeffrey LaBarge	:	C-2020-3019627
Mr. and Mrs. Gerald S. Lepre, Jr.	:	C-2020-3019646
William H. Rissmiller	:	C-2020-3020198
David Dollard	:	C-2020-3020219
Pennsylvania-American Water Large User Group	:	C-2020-3020240
Terrence Reilley and Dorothy Reilley	:	C-2020-3020524
Dennis Gore	:	C-2020-3020547
Hal H. Harris	:	C-2020-3020563
Svetlana Perminova and Viktor Ushenko	:	C-2020-3020829
Sam Galdieri	:	C-2020-3020841
Timothy Peter Walsh	:	C-2020-3020935
Christopher Visco	:	C-2020-3020938
Gregory and Catherine Gannon	:	C-2020-3021381

v.

Pennsylvania-American Water Company

RECOMMENDED DECISION

Before
Conrad A. Johnson
Administrative Law Judge

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I. INTRODUCTION

This Recommended Decision recommends approval of the Joint Petition for Non-Unanimous Settlement of Rate Investigation (Joint Petition or Settlement) filed by Pennsylvania-American Water Company, the Commission's Bureau of Investigation and Enforcement and Pennsylvania-American Large Users Group and joined in and supported by AK Steel Corporation (Joint Petitioners or Settling Parties) because the Settlement is supported by substantial evidence and is in public interest.

By Commission *Opinion and Order* entered on August 20, 2020, the procedural schedule in this case was extended to March 15, 2021. The last reasonable public meeting at which the Commission may consider the staff recommendation on this matter is the public meeting scheduled for February 25, 2021. The original statutory rate suspension period ends on January 28, 2021, with the proposed appropriate amount of rate recovery set forth in Chart A below.

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 mitigation measures.¹ 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 detailed in the following Chart A.

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: <u>\$(10.5) M</u>	Step 2 Base Rate Increase: \$ 20.0 M	Credit: <u>\$ (0)</u>
Step 1 Net Increase: \$ 40.0 M	Step 2 Credit: <u>\$(10.5) M</u>	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).		

Chart A.

¹ The Settlement as to the \$70.5 million in operating revenues is a "black box" settlement. Transcript (Tr.) 684. A black box agreement does not specifically identify the resolution of all disputed issues. Instead, an overall increase to base rates is agreed upon and the settling parties retain all right to further challenge all issues in subsequent proceedings.

Based on a 5/8" meter and 3,458 gallons per month consumption, the anticipated impact of the agreed-upon Settlement rates upon the average customer in each major general service rate class is set forth in Appendix G of the Settlement as detailed in the following Chart B.

Current Rate Zone	New Rate Zone	Name	Present Rates	Settlement Rates Step 1*	Amount	Percent Change	Settlement Rates Step 2	Amount	Percent Change
1	1	All Other Nittany, Sutton Hills, All	\$57.85	\$61.92	\$4.07	7%	\$62.80	\$0.88	1.4%
2	1	Seasons, Balsinger & Berry	\$46.90	\$61.92	\$15.02	32.0%	\$62.80	\$0.88	1.4%
3	3	McEwensville	\$33.28	\$41.21	\$7.93	23.8%	\$48.56	\$7.35	17.8%
4	4	Turbotville	\$45.40	\$57.11	\$11.71	25.8%	\$62.80	\$5.69	10.0%
5	5	Steelton	\$29.30	\$38.68	\$9.38	\$32.0%	\$41.02	\$2.34	6.0%
	2	Winola	\$33.23	\$33.23	\$0.00	0.00%	\$33.23	\$0.00	0.0%
* Where applicable, present rates include Tax Cuts and Jobs Act (TCJA) negative surcharge and Distribution System and Improvement Charge (DSIC) as projected for October 1, 2020.									

Chart B.

The Settlement rates proposed for wastewater concerning rate structure, rate design and the distribution of the increase in revenues are detailed in Appendix B to the Settlement.

The Settlement also includes enhancements to furnish COVID-19 customer relief measures and to augment Pennsylvania-American Water Company's low-income assistance programs.

II. HISTORY OF THE PROCEEDINGS

A. Governor's Executive Order and Commission's Emergency Order

On March 6, 2020, Governor Wolf issued a Proclamation of Disaster Emergency in response to the COVID-19 emergency (*Executive Order*). On March 15, 2020, Pennsylvania's Deputy Secretary for Human Resources and Management issued an Executive Order implementing protocols for remote telework for state offices in Dauphin County and the

Capital Complex, including the Commission’s offices for a period of at least fourteen days, beginning March 16, 2020. On March 16, 2020, the Governor’s office issued an order closing all businesses that are not life sustaining.

On March 20, 2020, the Commission issued an Emergency Order to furnish guidance on the conduct of Commission proceedings during the pendency of the COVID-19 emergency.² Additionally, as part of its response to the Governor’s *Executive Order*, the Commission adopted broader electronic filing practices and ceased paper service on the Commission or by the Commission on others for the duration of the emergency.

B. Description of the Utility and the Rate Filings

Pennsylvania-American Water Company (PAWC or the Company) is a “public utility” as defined in 66 Pa.C.S. § 102.³ The Company furnishes water and wastewater services to approximately 740,000 customers in a service territory covering portions of 36 counties across the Commonwealth.⁴ 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.⁵

On March 30, 2020, PAWC filed with the Pennsylvania Public Utility Commission (Commission or PUC) its Notice of Intent to file data and testimony in support of its proposed general base rate increase on or before April 29, 2020.

² *Re Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*, Emergency Order, M-2020-3019262 (Mar. 20, 2020) (*Emergency Order*).

³ References to a “Section” are to the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. § 101 *et seq.*, unless indicated otherwise.

⁴ Tr. 7, 135; PAWC St. 2, p. 3.

⁵ PAWC St. 6, pp. 20-24.

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 Commission 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 Specifically, the filing proposed increases in annual water and wastewater revenues totaling \$92.4 million in 2021 and \$46.2 million in 2022.⁶

C. Complaints and Petitions to Intervene

Beginning on April 29, 2020, Complaints and Petitions to Intervene were filed by various parties including the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA). The Commission’s Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance. Parties that filed Complaints in this case are set forth in the caption of this case. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), AK Steel Corporation (AK Steel) and the Commission on Economic Opportunity (CEO) each filed Petitions to Intervene.

D. Suspension of the Rate Filing

By Order entered May 21, 2020, pursuant to 66 Pa.C.S. § 1308(d), the Commission suspended PAWC’s general base rate increase filing by operation of law until January 28, 2021 (“Suspension Order”) and instituted an investigation to determine the lawfulness, justness and reasonableness of the Company’s existing and proposed rates, rules and regulations. The matter was assigned to the Office of Administrative Law Judge (OALJ) for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision. On May 22, 2020, a Notice was issued to the Parties informing them the proceedings were assigned

⁶ See PAWC St. 1, pp. 6-7, 16-18.

to me, the undersigned Administrative Law Judge (ALJ) and that a telephonic Prehearing Conference would be held on June 4, 2020.⁷

In compliance with the Commission's Suspension Order, on May 27, 2020, PAWC filed Tariff Supplement No. 20 to Original Tariff Water – Pa. P.U.C. No. 5 and Supplement No. 20 to Original Tariff Wastewater – Pa. P.U.C. No. 16, reflecting the suspension until January 28, 2021.

E. OCA's Motion for Extension and PAWC's Petition for Protective Order

On May 28, 2020, OCA filed an Expedited Motion for an Extension of the Statutory Period of Pennsylvania-American Water Company's Base Rate Proceeding (Motion for Extension). OCA asserted that a forty-five (45) day extension of the statutory suspension period "is necessary to meet the mounting challenges resulting from the COVID-19 pandemic."

I advised the Parties that OCA's Motion for Extension would be addressed at the Prehearing Conference by Chief Administrative Law Judge Charles E. Rainey, Jr. (Chief ALJ Rainey). PAWC filed an Answer in Opposition to OCA's Motion and I&E and CAUSE-PA filed Answers supporting OCA's Motion.

On June 3, 2020, PAWC filed a Petition for Protective Order in these proceedings and a Petition for Consolidation of Docket Nos. R-2020-3019369 and R-2020-3019371 into a single proceeding.

⁷ Due to the ongoing COVID-19 pandemic, the Commission's offices were closed. Consequently, the prehearing conference was scheduled to convene telephonically.

F. Prehearing Conference

I convened the Prehearing Conference as scheduled on June 4, 2020.

Chief ALJ Rainey was present to consider OCA's Motion. The following Parties participated in the conference:

Party	Representative(s)
PAWC	Susan Simms Marsh, Esquire Anthony C DeCusatis, Esquire Kenneth M. Kulak, Esquire Mark A. Lazaroff, Esquire
I&E	Carrie B. Wright, Esquire
OCA	Christine M. Hoover, Esquire Erin L. Gannon, Esquire Harrison W. Breitman, Esquire
OSBA	Erin Fure, Esquire Daniel G. Asmus, Esquire
Pennsylvania-American Water Large User Group (PAWLUG)	Adeolu A. Bakare, Esquire Jo-Anne Thompson, Esquire
Jessica LaBarge	Self-represented
Jan K. Vroman	Self-represented
CAUSE-PA	Ria M Pereira, Esquire
AK Steel	Kurt J. Boehm, Esquire

Prior to discussion of the litigation schedule, Chief ALJ Rainey received the Parties' oral arguments on OCA's Motion for Extension. After argument and deliberation with the ALJ, Chief ALJ Rainey granted OCA's Motion for Extension on the record, thereby extending the statutory suspension period by forty-five (45) days, i.e., until March 15, 2021. Chief ALJ Rainey's ruling was reduced to writing in the *Order Granting the Office of Consumer Advocate's Expedited Motion for an Extension of the Statutory Suspension Period of Pennsylvania-American Water Company's Base Rate Proceeding (Extension Order)*, which was issued to the Parties on June 4, 2020.

On June 15, 2020, I issued a *Prehearing Order* establishing the litigation schedule as agreed to by the Parties at the Prehearing Conference and consistent with Chief ALJ Rainey's decision to grant additional procedural time in this proceeding. The *Prehearing Order* also consolidated the rate filing and Complaints filings into a single proceeding at Docket No. R-2020-3019369.

On June 18, 2020, PAWC filed Supplement No. 21 to Tariff Water-PA P.U.C. No. 5 and Supplement No. 21 to Tariff Wastewater-PA P.U.C. No. 16 thereby further suspending the proposed rates, effective date until March 15, 2021.

G. First Interim Order and Opinion and Order on Reconsideration Petition

On June 24, 2020, PAWC filed a Petition for Reconsideration (Petition) seeking reversal of Chief ALJ Rainey's *Extension Order*.

On June 26, 2020, I issued a *First Interim Order Granting Respondent's [PAWC's] Petition for Protective Order*.

On July 6, 2020, OCA and I&E filed Answers to the Petition. On July 8, 2020, CAUSE-PA filed an Answer to the Petition. On July 14, 2020, OSBA filed an Answer to the Petition.

On August 20, 2020, the Commission issued an *Opinion and Order (August 2020 Order)*, granting, in part and denying, in part, PAWC's Petition, affirming Chief ALJ Rainey's *Extension Order*, and directing the OALJ to modify, if necessary, the litigation schedule appearing in the ALJ's *Prehearing Order* issued on June 15, 2020, consistent with the *Opinion and Order*.

Under the *August 2020 Order*, in pertinent part, the Commission affirmed Chief ALJ Rainey's *Extension Order*, granting OCA's request for an additional forty-five days in the procedural schedule. However, the Commission effectively denied extending the effective date

of PAWC's proposed rates from January 28, 2021 to March 15, 2021. The Commission explained as follows:

Because we are only authorizing the extension or suspension of deadlines and not of substantive rights, failure to meet the seven-month deadline would result in the proposed rates going into effect by operation of law.^[8] Therefore, we find that PAWC is entitled to the appropriate rate relief in accordance with Section 1308(d) of the Code immediately following the end of the original statutory rate suspension period, which, in this case, is January 28, 2021.

August 2020 Order, p. 21.

The Commission noted that sufficient time was needed to consider and rule upon the Recommended Decision to be issued in the proceeding before the last reasonable public meeting prior to the expiration of the suspension date. Accordingly, the deadline for the issuance and filing of the presiding ALJ's Recommended Decision was set at on or before Thursday, December 24, 2020. *Id.*

The Commission further directed the Parties and the OALJ as follows:

Additionally, we shall reserve the following issues to be addressed at the appropriate stages in this proceeding for final adjudication: (1) the appropriate rate recovery immediately following the end of the Section 1308(d) suspension period until the date the final rates are approved in a final Commission order and take effect in the utility's compliance tariff filing; and (2) the appropriate mechanism for implementing such rate recovery. We shall direct the Parties to address the foregoing rate recovery issues at the appropriate stages in this proceeding and direct the OALJ to fully address the issues and provide a recommended disposition thereof in the Recommended Decision.

Id., p. 22.

⁸ See 66 Pa.C.S. § 1308(d).

H. Secretarial Letter, Public Input Hearings and Second Interim Order

On August 4, 2020, a Secretarial Letter was issued directing the parties to address questions raised by Commissioner Ralph V. Yanora concerning utility practices to prevent cross-connections and back-flow. On September 4, 2020, PAWC submitted the written supplemental direct testimony of Company's Vice President of Operations, William Andrew Clarkson, to address Commissioner Yanora's questions.

Eight Public Input Hearings (PIHs) were scheduled by Notice dated July 21, 2020. The PIHs were scheduled for August 18, 2020 and August 25-27, 2020, at 1:00 p.m. and 6:00 p.m. each day. The public input hearings convened as scheduled, and 35 individuals, including ratepayers, provided testimony addressing PAWC's proposed water and wastewater rate increases. The PIHs are discussed in Section III of this Recommended Decision.

On September 2, 2020, I issued a Second Interim Order Modifying Litigation Schedule (*Second Interim Order*), which revised the schedule for the submission of written testimony and evidentiary hearings in accordance with the *August 2020 Order*. The *Second Interim Order* reminded the parties about rescheduling of the evidentiary hearings for October 23, 26-29, 2020, starting at 9:30 a.m. each day.

By Notice dated September 8, 2020, the Parties were informed that evidentiary hearings would convene in this matter on October 23, 26-29, 2020, starting at 9:30 a.m. each day. The September 8, 2020 Notice further informed the Parties that you may lose your case, if you did not participate in this hearing and present facts on the issues raised.

In accordance with the modified schedule established in the *Second Interim Order*, on September 8, 2020, AK Steel, CAUSE-PA, CEO, I&E, OCA, OSBA, and PAWLUG submitted a total of 18 written statements of direct testimony and accompanying exhibits. On September 29, 2020, PAWC, I&E, OSBA, and PAWLUG submitted a total of 19 written statements of rebuttal testimony with accompanying exhibits. On October 20, 2020, AK Steel, CAUSE-PA, I&E, OCA, OSBA, and PAWLUG submitted a total of 17 written statements of

surrebuttal testimony with accompanying exhibits. On October 22, 2020, PAWC submitted an Oral Rejoinder Outline for seven witnesses.

I. Second Prehearing Conference

By email dated October 20, 2020, the Parties jointly requested cancellation of the first day of the evidentiary hearings to facilitate settlement discussions. On the same date, I informed the Parties that the first day of evidentiary hearings would convene as a Second Prehearing Conference, and the Parties should be prepared to discuss procedural matters, outstanding issues, and settlement status.

During the Second Prehearing Conference held on October 23, 2020, PAWC informed me that a settlement had been achieved between I&E and the Company. The settlement is discussed in Section IV of this Recommended Decision. PAWC explained that the Company was continuing negotiations with the remaining Parties that did not join the settlement to narrow the outstanding issues for litigation in this case. Also, all Parties waived cross-examination, subject to the right to cross-examine Company witnesses on their rejoinder testimony. I directed the Company to file the proposed settlement between PAWC and I&E by October 30, 2020, and I set November 20, 2020 as the due date for comments or objections to the proposed settlement and November 30, 2020 as the date for replies to the comments or objections. Additionally, at the joint request of the Parties participating in the conference, I cancelled the second day of the evidentiary hearings, which was scheduled to convene on October 26, 2020.

On October 26, 2020, the Company supplemented its Oral Rejoinder Outline by serving two written statements of rejoinder testimony in advance of the evidentiary hearing scheduled the next day.

J. Evidentiary Hearings

Virtual evidentiary hearings were held on October 27-28, 2020.⁹ At the hearings, PAWC witnesses Bruce W. Aiton, Ashley E. Everette, John R. Wilde, Tawana Dean and Preston Pallas presented oral rejoinder testimony and were cross-examined by counsel for other parties. Company witness James H. Cawley, whose written rejoinder testimony had been served on October 26, 2020, was made available for cross-examination, and was questioned by me. The written testimony and exhibits of all parties were admitted into evidence. A list of the admitted Testimony and Exhibits is attached to this Recommended Decision as Appendix A.

K. Settlement Petition, Stipulations, Third Interim Order and Briefs

On October 30, 2020, PAWC, I&E and PAWLUG filed a Joint Petition for Non-Uniform Settlement of Rate Investigation (Joint Petition), seeking Commission approval of a Non-Uniform Settlement (Settlement). Copies of the Joint Petition were served upon all Parties of record. Statements in Support of PAWC and I&E were attached to the Joint Petition as Statements A and B, respectively. On November 2, 2020, AK Steel filed a Statement in Support of Settlement and joined the Settlement. Hereinafter, PAWC, I&E, PAWLUG, shall be referred to as “the Joint Petitioners or Settling Parties.” On November 3, 2020, PAWLUG filed a Statement in Support of Settlement. On November 6, 2020, PAWC filed Appendices A-C and F-H to the Joint Petition.

⁹ Complainants Charles and Jennifer Spryn, Docket No. C-2020-3019905, Complainant Jan K. Vroman, Docket No. C-2020-3020220, and Complainants Jessica and Jeffrey LaBarge, Docket No. C-3030-3019627, Complainant West Norriton Township, Docket No. C-2020-3020401 and Complainant East Norriton Township, Docket No. C-2020-3021060 had previously been on the Active Service List; however, they did not participate in the evidentiary hearings and were subsequently moved to the Inactive Service List. After being notified, a party who fails to be represented at a hearing may be deemed to have waived the opportunity to participate in the hearing and thereafter will not be permitted to reopen the disposition of a matter accomplished at the hearing. *See* 52 Pa.Code § 5.245.

On November 6, 2020, the PAWC filed the following Appendices to the Settlement:

- Proposed Water Tariff (Appendix A)
- Proposed Wastewater Tariff (Appendix B)
- Proof of Revenues (Appendix C)
- Distribution System Improvement Charge (DSIC) – Total Aggregate Plant
- Costs (Appendix F)
- Bill Comparisons (Water) (Appendix G)
- Bill Comparisons (Wastewater) (Appendix H)

The active Parties' general position on the Settlement are discussed in Section VIII.

On October 30, 2020, PAWC and CAUSE-PA filed a Joint Stipulation (CAUSE-PA Stipulation 1) addressing issues raised by CAUSE-PA in this proceeding. The CAUSE-PA Stipulation 1 is discussed in Section V. of this Recommended Decision.

On November 5, 2020, I issued a *Third Interim Order Addressing Filing of Comments or Objections to Non-Unanimous Settlement (Third Interim Order)*. The *Third Interim Order* confirmed my directions at the Second Prehearing Conference that any comments or objections to the proposed Settlement be filed by November 20, 2020 and any replies to the comments or objections to the Settlement be filed by November 30, 2020. The *Third Interim Order* was served upon all Parties of record. As of the date of this Recommended Decision, none of the inactive Parties have filed comments or objections to the proposed Settlement.

On November 10, 2020, CAUSE-PA, CEO, OSBA, and PAWC filed Main Briefs. Pursuant to an extension, OCA filed its Main Brief on November 18, 2020.

On November 13, 2020, PAWC and CEO filed a Joint Stipulation (CEO Stipulation) addressing issues raised by CEO in this proceeding. Also, on November 13, 2020, PAWC filed a second Stipulation between itself and CAUSE-PA (CAUSE-PA Stipulation 2).¹⁰

¹⁰ The CAUSE-PA Stipulation was refiled on November 13, 2020, per the request of the Commission's Secretary's Bureau.

The CEO Stipulation and the CAUSE-PA Stipulation 2 are discussed in Section V of this Recommended Decision.

On November 20, 2020, PAWC, OCA, OSBA and CAUSE-PA filed Reply Briefs.

L. Objections to Settlement and Replies

On November 20, 2020, CAUSE-PA, OCA, and OSBA filed Comments objecting to the Settlement. On November 30, 2020, PAWC and I&E filed Comments in reply to the objections of OCA, OSBA and CAUSE-PA. The objections and replies are discussed in Section VIII of this Recommended Decision.

M. Fourth Interim Order, The Record, and Fifth Interim Order

On December 3, 2020, I issued a *Fourth Interim Order Confirming Admission of Written Testimonies and Exhibits into the Record*. The Parties written testimonies (statements) and exhibits were duly admitted into the record during the evidentiary hearing held on October 27 and 28, 2020. The admitted statements and exhibits are set forth in the Appendix A – HEARING EXHIBITS to this Recommended Decision.

By letter dated December 10, 2020, counsel for PAWC informed me that closing on its acquisition of Winola Water Company was scheduled for December 17, 2020, and PAWC would file proof of the acquisition as a late-filed exhibit. However, closing on PAWC's acquisition of Delaware Sewer Company would not be completed before the end of 2020. The acquisitions are a part of this proceeding. During the Second Prehearing Conference, there being no objection, PAWC was granted permission to file proof of its acquisitions as late-filed exhibits.¹¹ By the close of business on December 18, 2020, PAWC had not filed proof of its acquisition of Winola Water Company, as PAWC's late-filed exhibit.

¹¹ Tr. 567-569.

The record in this proceeding consists of PAWC's tariff filings; Complaints and the Petitions and responses thereto; the admitted written testimonies and exhibits of the Parties; the transcripts of the prehearing conferences, public input hearings and evidentiary hearings; the Parties briefs; the Stipulations; the Joint Petition for Non-Unanimous Settlement of Rate Investigation and Comments and responses thereto; and orders and opinions, issued herein.

On December 21, 2020, I issued a *Fifth Interim Order Admitting Non-Unanimous Settlement and Stipulations into the Record and Closing the Record*.

III. PUBLIC INPUT TESTIMONY

Public Input Hearings were held on August 18, 2020 and August 25-27, 2020, at 1:00 p.m. and 6:00 p.m. each day. The PIHs convened as scheduled, and 35 individuals, including ratepayers, provided testimony addressing PAWC's proposed rate increases as well as other matters. Some of the more common topics are summarized below.

A. Proposed Rate Increases

State Senator Judith Schwank testified that few, if any, ratepayers, can afford a rate increase at this time¹², especially in light of high unemployment rates in Pennsylvania as a result of the COVID-19 pandemic and uncertainty regarding household incomes.¹³ She expressed concerns about senior citizens on fixed incomes and small businesses that are already operating on thin margins or no margins at all.¹⁴

¹² Tr. 83:1-3.

¹³ Tr. 83:22-25.

¹⁴ Tr. 84:11-23.

Representative Maureen Madden advised that the proposed increases would be too much for her constituents to pay and requested that the increase be spread over a period of more than two years, giving the economy a chance to recover from the effects of COVID-19.¹⁵

State Representative Austin Davis testified that many customers are dealing with financial hardship as result of the COVID-19 pandemic and now is not the time to be increasing rates for essential water and wastewater services, which are key components to combating pandemic.¹⁶

Roseanne Milazzo, a Commissioner with West Norriton Township, testified that this is the wrong time for a rate increase because of the health and economic struggles people are facing as result the COVID-19 pandemic.¹⁷

Other witnesses, including customers, testified that the proposed increases would be unaffordable, especially for those on fixed incomes or who have been financially impacted by the COVID-19 pandemic.¹⁸

B. Current Water Rates

Ms. Milazzo testified that the cost of water for PAWC customers had increased much higher than the rate of inflation and that PAWC already charges some of the highest water rates in the entire country.¹⁹

¹⁵ Tr. 228:25-229:15.

¹⁶ Tr. 289:7-290:23. 448-13.

¹⁷ Tr. 150:20-151:10.

¹⁸ Tr. 93:10-94:2, 120:6-122:6, 164:1-165:14, 187:13-188:19; 239:1-10; 256:11-12, 261:10-19; 429:13-430:7, 432:8-433:1, 435:17-436:21.

¹⁹ Tr. 152:11-24.

C. Water Quality

Ms. Milazzo testified that some residents have complained to her of a “vile, chlorine smell” and are afraid to drink the water.²⁰ One witness testified that the smell and taste of his water was so poor that he had resorted to buying bottled water and bags of ice from the store.²¹ One customer testified that the water comes out of her faucet like foam for the first 30 seconds, and the water in her toilets has an odor like “rotten eggs.”²²

D. Combined Water/Wastewater Rates for Municipalities with Their Own Systems

Ms. Milazzo testified that municipalities that operate their own sewer systems, such as the Township of Lake West Norriton, should not be required to pay increased wastewater rates to subsidize improvements to other wastewater systems.²³

Chad Yurisc, a registered professional engineer, testified on behalf of the City of Warren and requested that the Commission consider the effect that PAWC’s proposed combined revenue requirement for water and wastewater would have on residents of municipalities, such as the City of Warren, that own and operate their own wastewater treatment plant.²⁴

E. Employee Salaries

Roseanne Milazzo testified that the high executive salaries, average employee salaries well over the median income for her township, high rates of return for shareholders, and increasing revenues are evidence that PAWC can afford to forgo a rate increase.²⁵

²⁰ Tr. 155:22-25.

²¹ Tr. 99:18-101:14; 411:6-412:9.

²² Tr. 247:11-14.

²³ Tr. 156:5-22.

²⁴ Tr. 237: 21-2 38:11.

²⁵ Tr. 151:11-152:10.

One customer testified he objected to any increase that was related to an increase in executive salaries.²⁶

F. Environmental Preservation Efforts

One customer alleged that the Company was failing to protect and preserve the Indian Creek watershed.²⁷ Another customer testified the Company does not spend enough on watershed protection grants.²⁸

G. Rate Increases for Acquisition Costs

Mr. Yurisc testified that that, given the current economic conditions resulting from the COVID-19 pandemic, acquisitions of additional systems should be delayed or the very least be made from existing profits, rather than increased rates.²⁹ One customer testified that acquisition costs should not be the sole burden of customers and should be equitably allocated to stockholders.³⁰

H. The Company's Community Outreach and Investment Efforts

John Papalia, a representative from the Warren County Chamber of Business and Industry, testified that the Company is a vital partner in his community, providing support for various events and development projects, most recently constructing a new water tank.³¹ Linda Mitch, a representative of the Lawrence County regional Chamber of Commerce, testified that

²⁶ Tr. 120:22-121:8.

²⁷ Tr. 172:11-174:9.

²⁸ Tr. 424: 21-425: 23.

²⁹ *Id.*

³⁰ Tr. 423:2-17.

³¹ Tr. 113:7-115:23.

PAWC has made \$130 million worth of investments in her community, including a new water treatment plant, that are driving economic development in her community.³²

James Lentz, a volunteer fire chief for the Lower Providence Fire Department, testified about how PAWC's senior management team, with their computer technology, assisted the fire department to ensure water level and pressure were maintained, when the fire department responded to a large commercial building fire in January 2019. He also stated the water company's improvements to its system have provided for a higher level of safety and efficiency in fire department operations.³³

Mary Sally, a representative from the Dollar Energy Fund, testified about PAWC's H₂O Help to Others Program and PAWC's efforts to support low-income customers.³⁴

IV. NON-UNANIMOUS SETTLEMENT TERMS AND CONDITIONS

The Non-Unanimous Settlement terms are set forth on pages 8-23 of the Non-Unanimous Settlement. The terms of the Non-Unanimous Settlement on pages 8-23 are set forth below in verbatim.

The Settlement consists of the following terms and conditions:

A. Revenue Requirement

23. Upon the Commission's approval of this Settlement, but no later than January 28, 2021 (see Paragraph 72 below), and the Company will be permitted to charge the rates for water service set forth in the proposed Water Tariff provided in Appendix A to this Settlement and the rates for wastewater service set forth in the proposed Wastewater Tariff provided in Appendix B (hereafter, the "Settlement Rates").⁵ The Settlement Rates are designed to produce additional annual water and wastewater operating revenue of \$70.5 million, as shown on the proof of revenues set

⁵ As previously noted, PAWC will file Appendices A-C on November 6, 2020.

³² Tr. 323:15-25.

³³ Tr. 439:10-441:23.

³⁴ Tr. 231:17-236:3.

forth in Appendix C to the Joint Petition. The \$70.5 million increase will be offset by an annualized credit of \$10.5 million in each of years 2021 and 2022 beginning on the effective date of Settlement Rates as shown on the summary of revenue increase appended hereto as Appendix D.

24. The credit of \$10.5 million is a negative surcharge to flow-back to customers all (“protected” and “unprotected”) excess accumulated deferred income taxes (“EADIT”) that the Company amortized and will amortize for financial reporting purposes during the period from January 1, 2018 through December 31, 2020. The EADIT amortized by PAWC for financial reporting purposes that are being flowed-back by the two-year \$10.5 million credit were booked to reflect the effect on the Company’s accumulated deferred income taxes of the change in the federal corporate net income tax rate from 35% to 21% pursuant to the Tax Cuts and Jobs Act (“TCJA”) that became effective on January 1, 2018.

25. The total net increase will be implemented in two installments and the Settlement Rates are designed to produce: (1) a net increase of \$40 million (\$50.5 million increase in base rates less a \$10.5 million credit) on the effective date of the Settlement Rates (“Step 1 Rate Increase”); and (2) a second installment effective on January 1, 2022 that increases base rates by \$70.5 million, which will be off-set by a credit of \$10.5 million, for a net total increase of \$60 million for the twelve months ending December 31, 2022 (“Step 2 Rate Increase”). The credit will cease to apply on January 28, 2023.

26. The Settlement Rates are designed to produce: (1) approximately \$766 million in total net annual combined water and wastewater revenue (including Other Revenue) during the period commencing on the effective date of the Settlement Rates; (2) approximately \$786 million in total net annual combined water and wastewater revenue (including Other Revenue) during the period commencing January 1, 2022. An annualized credit of \$10.5 million per 12-month period will apply for the first 24 months rates are in effect (January 28, 2021 through January 28, 2023) in the form of a negative surcharge to be applied equally to all classifications of water customers.⁶

27. The Joint Petitioners agree that the Company’s originally filed pro forma present rate revenue level has been used to establish the Settlement Rates.

28. In future rate filings, PAWC will submit one or more separate stormwater and wastewater cost-of-service studies for each of its combined sewer systems (“CSS”) currently consisting of McKeesport, Scranton and Kane and including any other CSS acquired by the time of each of the future rate filings. The Company is not required to provide a separate study for each combined stormwater system.

⁶ The revenues to be produced under Settlement Rates will be shown in Appendix C, which will be filed on November 6, 2020. If any inconsistency exists between the revenues described in Paragraph 26 and the proof of revenues set forth in Appendix C, the latter shall take precedence.

29. The Joint Petitioners acknowledge and agree that the depreciation rates set forth in PAWC Exhibit Nos. 11-C, 11-G, 11-K, 11-O, 11-S, 11-W, 11-AA and 11-AD are appropriate for ratemaking purposes in this case for 2021 and that the Company will use such depreciation rates to calculate the depreciation expense it records on its regulated books of account.

30. The Joint Petitioners agree that the Settlement Rates reflect the amortizations set forth in Appendix E to the Joint Petition, including amortization of protected EADIT produced by the TCJA in accordance with the average rate assumption method and all unprotected EADIT produced by the TCJA over a period of 20 years.

31. The Company will not implement a DSIC during the calendar year ending December 31, 2021. The first DSIC in 2022 will be effective no earlier than April 1, 2022 based on DSIC-eligible expenditures during January and February 2022. In any event, the Company will not begin to impose a DSIC until the total net plant balances reach the levels established in this proceeding using the adjusted utility plant in service balances for December 31, 2021 as referenced in Appendix F. In compliance with the Supplemental Implementation Order entered on September 21, 2016 at Docket No. M-2012-2293611, the amounts shown in Appendix F constitute the baseline of gross plant balances to be achieved in order to restart charges under the Company's DSIC.⁷

32. The Joint Petitioners agree and hereby stipulate that the Company shall use the rate of return on equity ("ROE") as calculated for water utilities and published in the "Bureau of Technical Utilities Services Report on the Quarterly Earnings of Jurisdictional Utilities" for the most recent quarter for purposes of calculating the ROE component of the Company's DSIC.

B. Alternative Ratemaking Mechanisms

33. PAWC agrees to withdraw: (1) the second year of its proposed MYRP, in its entirety; (2) its proposed Regionalization and Consolidation Surcharge; and (3) its proposal to implement a tracker and establish deferral accounts for its pension and other post-employment benefits expenses. This withdrawal is made without prejudice to propose these alternative ratemaking mechanisms in future proceedings.

C. Customer Assistance Programs and COVID-19 Relief Provisions

(1) COVID-19 Relief Measures

34. PAWC 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

⁷ As previously noted, the Company will file Appendix F on November 6, 2020.

this case and track the extraordinary, nonrecurring incremental COVID-19 related expense and shall maintain detailed accounting records of such expense.

35. PAWC will waive 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.

36. PAWC will permit customers to self-certify income for purposes of qualifying for the PAWC's H2O Help to Others Hardship Fund until the earlier of: (1) March 31, 2021; (2) the date on which the Executive Order is rescinded.

37. PAWC will expand community outreach to communities in need within PAWC service territories. This includes developing a community outreach plan to target communities significantly impacted as a result of the COVID-19 emergency. Through the newly formed low-income advisory group (see Paragraph 43 below), PAWC will seek input from interested parties and stakeholders to target areas with the most need. The community outreach plan will include an overall strategy and tactics to educate and enroll eligible and interested customers at or below 50% of the FPL.

38. The Company's annual contribution to its H2O Help to Others hardship grant program will be increased from its current level of \$400,000 to \$500,000 for water operations and from \$50,000 to \$100,000 for wastewater operations.

39. 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.

(2) PAWC's Low-Income Programs

40. PAWC will delete "To remain eligible for this rate, such customer must continually make timely payments on the discounted bills" from its water and wastewater tariffs.

41. PAWC will enhance its training materials and call scripts to specifically address how customers who call PAWC and the Customer Service Center indicating that they are having trouble paying their bills or are seeking financial assistance are directed to PAWC's customer assistance programs.

42. PAWC will continue to promote charitable contributions and donations to its H2O Help to Others Hardship Fund and expand its outreach channels to include working with the low-income advisory group to identify new sources of funding for the Hardship Fund.

43. Within 90 days of a Commission's final Order in this proceeding, PAWC will establish a low-income advisory group to include community based

organizations within the Company's service territory, representative from the Commission's Bureau of Consumer Services, interested stakeholders and interested parties in this case for the purpose of soliciting input to enhance the H2O Help to Others Program. The group will meet on a quarterly basis, with the first meeting of the advisory group to be held within 90 days of a Commission's final Order in this proceeding.

44. PAWC agrees to request that the Commission, as part of the approval of this Settlement, initiate a proceeding to consider whether to extend the "CAP Policy Statement" to PUC-regulated water and wastewater utilities within three months of the final Order in this proceeding.

(3) Winter Moratorium

45. PAWC will track low-income customers protected from winter moratorium termination as provided for under 52 Pa. Code §§ 56.100(a) and 56.251.

(4) Discontinuance of Services to Leased Premises Act

46. 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 Discontinuance of Services to Leases Premises Act ("DSLPA").

47. PAWC will 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.

48. PAWC will 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.

49. PAWC will revise its policies, procedures, and associated training materials, as follows:

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 notice, and provide the time required under DSLPA for the tenant to make payment.

b. To incorporate the voluntary discountenance requirements of the DSLPA;

c. To ensure that tenants are not required to appear in person to demonstrate tenancy or exercise their rights under DSLPA.

(5) Language Access

50. PAWC will continue its review of customer communication materials and modify as necessary for compliance with Commission regulations at 52 Pa. Code § 56.201(b).

51. PAWC will provide written documents to customers in Spanish, if requested.

52. If a PAWC customer calls the Customer Service Center and requests correspondence in Spanish, the customer service representative (“CSR”) will code the system to automatically generate all customer correspondence going forward for that customer in Spanish.

53. PAWC will translate billing information into Spanish in compliance with 52 Pa. Code §56.201(b). PAWC will present the revised billing information to the low-income advisory group in advance of implementation and consider feedback from the advisory group in making its revisions.

54. PAWC will modify its termination notices to include information in Spanish directing Spanish-speaking customer to a number to call for information and translation assistance and Spanish language section of all termination notices will highlight that the document is a termination notice.

55. PAWC will revise its policies and procedures so that its CSRs will contact a third party interpreter service upon encountering a customer with limited English proficiency.

56. PAWC will develop a language access plan with 180 days of the final Order in this matter, in consultation with the low-income advisory group.

57. PAWC will conduct a formal needs assessment to determine whether any of its water or wastewater rate zones are populated by 5% or more of individuals who speak a language other than English or Spanish. If so, PAWC will comply with the Commission’s regulations at 52 Pa. Code § 56.91(b)(17) with respect to that group.

(6) Protection from Abuse Accounts

58. PAWC will develop written policies and procedures related to domestic violence issues, which will include guidelines for reviewing other court orders that qualify for protections under Chapter 56 of the Commission’s regulations. PAWC will consult with the Pennsylvania Coalition Against Domestic Violence (“PCADV”) in developing these policies and procedures. In addition, PAWC will

consult with members of its newly formed low-income advisory group on PAWC's policies and procedures concerning victims of domestic violence.

59. PAWC will implement specific domestic abuse training for its Compliance and Customer Advocacy teams. Such trainings will be developed in consultation with PCADV.

60. PAWC will implement training for CSRs to increase their knowledge about the availability of additional protections for victims of domestic violence and to actively screen for and identify customers who may be exempt from Chapter 14 of the Public Utility Code. Such training documents will be developed in consultation with PCADV.

61. PAWC will develop scripts for CSRs to use when screening for potential domestic violence victims and for explaining the protections available to customers with PFAs and similar court orders.

62. PAWC will develop scripts and written guidance for its Compliance and Customer Advocacy teams to use when communicating with victims of domestic violence.

63. PAWC will conduct a review of its confidentiality procedure for information of customers with PFAs and similar court orders, and if necessary, enhance the process for protecting account information, including protections against access by a third party who is currently listed or was previously listed on the customer account.

64. PAWC will ensure training documents highlight the need for extra confidentiality protections for customers with PFAs and similar court orders.

65. PAWC will establish a dedicated group of individuals from the Compliance and Customer Advocacy teams, who will be responsible for consulting and communicating with customers with PFAs and similar court orders.

66. PAWC will 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 PAWC employees.

67. PAWC will 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. PAWC will share a draft of these materials with its low-income advisory group for input and feedback.

(7) Tariff Changes

68. The Joint Petitioners agree to the Company's proposal for no-fee credit card and e-check payments.

69. The Company will revise tariffs to include the following: 1) the rights of certain vulnerable customers with a Protection from Abuse Order; 2) right to a payment arrangement with criteria for eligibility; 3) obligation to issue a written denial or service that includes reasons for denial or payment of prior debt and dispute process; and 4) termination notice procedures.

D. Cost Allocation And Rate Design

70. The Settlement Rates set forth in Appendix A reflect the Joint Petitioners' agreement with regard to water rate structure, rate design and the distribution of the increase in revenues in this case, as follows:⁸

a. Under the Settlement Rates, 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 (2021) and \$18.50 (2022) service charges proposed by the Company. The 5/8-inch service charge for the Industrial class in Rate Zone 1 under the Settlement Rates will be \$25.40, and the same percentage increase will be applied for all other meter sizes.

b. The metered rates for all classes of customers in Rate Zone 2 (Nittany, Sutton Hills, All Seasons, Balsinger and Berry Hollow) have been consolidated with Rate Zone 1 under the Settlement Rates.

c. The Company currently has a separate Rate Zone 3 for its McEwensville operations. Under the Settlement, the service charges for the residential, commercial and municipal customer classes in Rate Zone 3 have been equalized with Rate Zone 1.

d. The Company currently has a separate Rate Zone 4 for its Turbotville operations. Under the Settlement, the service charges for the residential, commercial and municipal customer classes in Rate Zone 4 have been equalized with Rate Zone 1. Additionally, usage charges for the residential class in Rate Zone 4 have been equalized with Rate Zone 1 in 2022.

⁸ Subparagraphs a. - e. provide a general description of the water rate structure and water rate design incorporated in the Settlement Rates. While every effort has been made to ensure that the description is accurate, if any inconsistency exists between such description and the rates set forth in Appendix A, the latter shall take precedence.

e. The Company currently has a separate Rate Zone 5 for its Steelton Water Operations. Under the Settlement, the service charges for the residential, commercial and municipal customer classes in Rate Zone 5 have been increased.

f. Appendix G contains billing comparisons showing the impact on the bill of an average customer in each major general service rate class if the Settlement Rates are approved.⁹

71. The Settlement Rates set forth in Appendix B reflect the Joint Petitioners' agreement with regard to wastewater rate structure, rate design and the distribution of the increase in revenues in this case, as follows.¹⁰

a. The Company currently has ten wastewater rate zones. Under the Settlement Rates, existing wastewater Rate Zone 4 and future Rate Zone 11 will be consolidated with wastewater Rate Zone 1. The other eight rates zones will consist of Rate Zone 2 (New Cumberland), Rate Zone 3 (Scranton), Rate Zone 5 (Franklin), Rate Zone 6 (McKeesport), Rate Zone 7 (Sadsbury), Rate Zone 8 (Turbotville), Rate Zone 9 (Exeter) and Rate Zone 10 (Kane).

b. Under the Settlement Rates, Rate Zones 1, 2, 4, 6, 8, and 9 service charge 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 ("EDU"). The Settlement Rates for all classes of customers and classes of wastewater service for Rate Zones 1-6 and 8-10 are set forth in the applicable portions of the Wastewater Tariff attached as Appendix B.

c. Appendix H contains billing comparisons showing the impact on the bill of an average customer in each major rate class if the Settlement Rates are approved.

d. Combined Water and Wastewater Revenue Requirement: Pursuant to Section 1311(c) of the Public Utility Code and the Commission's Implementation Order in Docket No. R-2013-2355276, under the Settlement Rates a portion of the wastewater revenue requirement totaling \$29,296,281 (Step 1 Rate Increase) and \$21,480,685 (Step 2 Rate Increase) is being allocated to water customers, as shown in Appendix C, Water Operations Excluding Steelton).

e. Stormwater Rates: Under the Settlement, the Company agrees to propose potential recovery and rate methodology options for stormwater costs of combined sewer systems in its next general wastewater or combined water/wastewater

⁹ As previously noted the Company will file Appendices G and H to the Joint Petition on November 6, 2020.

¹⁰ If any inconsistency exists between the information provided in subparagraphs a.-e. and the rates set forth in Appendix B, the latter shall take precedence.

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. PAWC also agrees that, at intervals of approximately one year and two years after entry of the Commission's final Order approving the Settlement in this proceeding, unless the Company files a wastewater or combined water/wastewater general base rate case prior to either of those times, it will meet with the parties to this case to provide progress updates and discuss potential cost recovery methods under consideration.

E. Effective Date

72. The Joint Petitioners agree to the implementation of the Settlement Rates on January 28, 2021, when the suspension period will expire. Upon the entry of a Commission Order approving this Joint Petition, the Company will be permitted to file a tariff for water service, in the form attached hereto as Appendix A, and a tariff for wastewater service, in the form attached hereto as Appendix B, reflecting the agreed-to additional operating revenue to become effective in two installments on January 28, 2021 and January 1, 2022, respectively. The Company's proposed limitation of liability provisions, which are outlined in the direct and rebuttal testimony of PAWC witness Ashley Everette, have been reflected in the proposed tariffs for water service and wastewater service provided in Appendices A and B.

73. If Commission approval of this Settlement occurs after January 28, 2021, the Joint Petitioners agree that PAWC shall be entitled to recoup the revenue increase not billed from the effective date through the date of PUC approval of new rates in the manner set forth in the Commission's final Order in this proceeding. The revenue increase not billed from the effective date through the date of PUC approval of new rates will be recovered over a six-month period that shall be applied proportionately to all customer classes.

III. PUBLIC INTEREST CONSIDERATIONS

74. PAWC, I&E and PAWLUG have each prepared Statements in Support identified as Statements A through D, respectively, setting forth the bases upon which they believe that the Settlement, including the Settlement Rates, is fair, just, reasonable, non-discriminatory, lawful and in the public interest.

75. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

a. The Settlement provides for an increase in annual operating revenues of \$70.5 million in two installments, which will be offset by an annualized credit of \$10.5 million in each of years 2021 and 2022, in lieu of the \$136.8 million increase over the two years of the MYRP PAWC originally requested.

b. The Settlement includes robust commitments from PAWC to protect its customers amid the COVID-19 public health and economic crisis.

c. The Settlement Rates will allocate the agreed upon combined water and wastewater revenue requirement to each rate zone and customer class in a manner that is reasonable in light of the rate structure/cost of service positions of the Joint Petitioners and implement Section 1311(c) of the Public Utility Code in a manner that is agreeable to the Joint Petitioners.

d. The Joint Petitioners arrived at the Settlement terms after conducting extensive discovery, submitting testimony and engaging in in-depth discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231, 69.391 and 69.401), and is supported by a substantial record.

IV. ADDITIONAL TERMS AND CONDITIONS

76. This Settlement is proposed by the Joint Petitioners to settle the instant case and is made without any admission against, or prejudice to, any position which any Joint Petitioner might adopt during subsequent litigation. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify the terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within three business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including but not limited to presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions. The Joint Petition does not establish precedent and neither the Joint Petition nor Commission approval of the Joint Petition shall be cited in other proceedings, except to enforce the Joint Petition. The Joint Petitioners agree that, while the Settlement, upon Commission approval without modification, will be enforceable according to its terms, the Joint Petition does not expressly or implicitly represent approval of any specific claim or claims made in this proceeding and agree not to contend otherwise in any other proceeding.

77. All Joint Petitioners will make reasonable, good faith efforts to obtain approval of the Settlement by the ALJ and the Commission without modification. If the ALJ, in the Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed, the Joint Petitioners agree to waive the filing of Exceptions. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Settlement, or

any additional matters proposed by the ALJ in the Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

V. STIPULATIONS

A. PAWC Stipulations with CAUSE-PA

PAWC has filed two Stipulations with CAUSE-PA, one was filed on October 30, 2020 (“CAUSE-PA Stipulation 1”) and one was filed on November 13, 2020 PAWC (“CAUSE-PA Stipulation 2”). The terms of the CAUSE-PA Stipulation 1 relate to Language Access and Protection from Abuse Accounts and are set forth below in verbatim:

A. Language Access

1. PAWC will continue its review of customer communication materials and modify as necessary for compliance with Commission regulations at 52 Pa. Code § 56.201(b).
2. PAWC will provide written documents to customers in Spanish, if requested.
3. If a PAWC customer calls the Customer Service Center and requests correspondence in Spanish, the Customer Service Representative (“CSR”) will code the system to automatically generate all customer correspondence going forward for that customer in Spanish.
4. PAWC will translate billing information into Spanish in compliance with 52 Pa. Code § 56.201(b). PAWC will present the revised billing information to the low-income advisory group in advance of implementation and consider feedback from the advisory group in making its revisions.
5. PAWC will 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.
6. PAWC will revise its policies and procedures so that its CSRs will contact a third party interpreter service upon encountering a customer with Limited English Proficiency.

7. PAWC will develop a language access plan within 180 days of the final order in the above-referenced proceeding (the “Final Order”), in consultation with the low-income advisory group.
8. PAWC will conduct a formal needs assessment to determine whether any of its water or wastewater rate zones are populated by 5% or more of individuals who speak a language other than English or Spanish. If so, PAWC will comply with Commission regulations 52 Pa. Code § 56.91(b)(17) with respect to that group.

B. Protection from Abuse Accounts

9. PAWC will 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. PAWC will consult with Pennsylvania Coalition Against Domestic Violence (“PCADV”) in developing these policies and procedures.
10. PAWC will consult with members of its newly formed low-income advisory group on PAWC’s policies and procedures concerning victims of domestic violence.
11. PAWC will implement specific domestic abuse training for its Compliance and Customer Advocacy teams. Such trainings will be developed in consultation with PCADV.
12. PAWC will implement training for CSRs to increase their knowledge about the availability of additional protections for victims of domestic violence and to actively screen for and identify customers who may be exempt from Chapter 14 of the Public Utility Code. Such training documents will be developed in consultation with PCADV.
13. PAWC will develop scripts for CSRs to use when screening for potential domestic violence victims and for explaining the protections available to customers with a Protection from Abuse Order (a “PFA”) and similar court orders.
14. PAWC will develop scripts and written guidance for its Compliance and Customer Advocacy teams to use when communicating with victims of domestic violence.

15. PAWC will conduct a review of its confidentiality procedure for information of customers with PFAs and similar court orders, and if necessary, enhance the process for protecting account information, including protections against access by a third party who is currently listed or was previously listed on the customer account.
16. PAWC will ensure training documents highlight the need for extra confidentiality protections for customers with PFAs and similar court orders.
17. PAWC will establish a dedicated group of individuals from the Compliance and Customer Advocacy teams, who will be responsible for consulting and communicating with customers with PFAs and similar court orders.
18. PAWC will establish a dedicated email address and fax for the submission of PFAs and similar court orders, which will only be accessible to a limited number of PAWC employees.
19. PAWC will 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. PAWC will share a draft of these materials with its low-income advisory group for input and feedback.
20. On or about November 2, 2020, PAWC will review and revise its training documents regarding attempting to make personal contact at termination 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 a court order that shows evidence of domestic violence.

The terms of the CAUSE-PA Stipulation 2 relate to Tenant Issues and Protections and are set forth below in verbatim:

A. Tenant Issues and Protections

1. PAWC will revise its 10-day, 3-day, and 48-hour termination notices to include a reference to, and explanation of, tenant rights pursuant to the Discontinuance of Services to Leased Premises Act (“DSLPA”).
2. PAWC will prepare a draft bill insert to inform landlords of their obligation to notify the Company when a premise is

occupied by a tenant. PAWC will share the draft bill insert with the low-income advisory group for input and feedback prior to finalizing the bill insert.

3. 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.
4. PAWC will ask all applicants for service whether the property is or will be occupied by a tenant.
5. PAWC will 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.
6. PAWC will 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.
7. PAWC will 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.
8. PAWC will evaluate 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.
9. PAWC will 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.
- b. To incorporate the voluntary discountenance requirements of the DSLPA.
- c. To ensure that tenants are not required to appear in person to demonstrate tenancy or exercise their rights under DSLPA.

B. PAWC Stipulations with CEO

On November 13, 2020, PAWC filed a Stipulation between Pennsylvania-American Water Company and Commission on Economy Opportunity (“CEO Stipulation”). The terms of the CEO Stipulation relate to COVID-19 and Low-Income Programs and are set forth below in verbatim:

A. COVID-19 Related Terms

- 1. PAWC 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 the above-referenced proceeding (the "Final Order") and track the extraordinary, nonrecurring incremental COVID-19 related expense and shall maintain detailed accounting records of such expense.
- 2. PAWC will 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.
- 3. PAWC will permit customers to self-certify income for purposes of qualifying for the PAWC's H2O Help to Others Hardship Fund until the earlier of: (1) March 31, 2021; (2) the date on which the Governor's Proclamation of Disaster Emergency is rescinded.
- 4. PAWC will expand community outreach to communities in need within PAWC service territories. This includes developing a community outreach plan to target communities significantly impacted as a result of the COVID-19 emergency. Through the low-income advisory group, PAWC will seek

input from interested parties and stakeholders to target areas with significant need. The community outreach plan will include an overall strategy and tactics to educate and enroll eligible and interested customers at or below 50% of the FPL.

5. The Company's annual contribution to its hardship grant program will be increased from its current level of \$400,000 to \$500,000 for water operations and from \$50,000 to \$100,000 for wastewater operations.

B. Low Income Programs

6. PAWC will delete "To remain eligible for this rate, such customer must continually make timely payments on the discounted bills" from its water and wastewater tariffs.
7. PAWC will enhance its training materials and call scripts to specifically address how customers who call PAWC and the Customer Service Center indicating that they are having trouble paying their bills or are seeking financial assistance are directed to PAWC's customer assistance programs.
8. PAWC will continue to promote charitable contributions and donations to its H2O Help to Others Hardship Fund and expand its outreach channels to include working with the low-income advisory group to identify new sources of funding for the Hardship Fund.
9. Within 90 days of a Commission Final Order in this proceeding, PAWC will establish a low-income advisory group to include community based organizations within the Company's service territory, representative from the Commission's Bureau of Consumer Services, interested stakeholders and interested parties in this case for the purpose of soliciting input to enhance the H2O Help to Others Program. The group will meet on a quarterly basis, with the first meeting of the advisory group to be held within 90 days of a Commission's Final Order in this proceeding.
10. PAWC will develop a process for program data collection and reporting to better count low income customers, regardless of how that information is provided.

PAWC will enhance its program data collection and reporting of its low-income customers as follows:

- A. PAWC will note accounts in its Customer Information System (CIS) as low income when it receives income information indicating a customer is at or below 150% FPL, including but not limited to, requests for PAWC or Commission issued payment arrangements and applications for the H2O Help to Others Program.
 - B. PAWC will begin tracking the following metrics:
 - The reasons that a H2O Help to Others bill discount program customer left the program;
 - Consistent monthly data related to low income arrearages by rate zone;
 - Consistent monthly data related to low income terminations by rate zone; and
 - Number of "Confirmed low-income customers" for whom PAWC has obtained income information either verbally or in writing, indicating that the customer is at or below 150% of the federal poverty level.
 - C. PAWC will utilize the data in subsection A and B to analyze the level of accessibility and reasons for customers leaving the H2O Help to Others bill discount program. Results of this analysis should be shared with parties and stakeholders through the low income advisory group to evaluate ways to improve the accessibility of the H2O Help to Others bill discount program.
11. No later than six months after a final order in this proceeding, PAWC will present an Arrearage Management Plan (AMP) to the Commission for review and approval. The AMP will be designed through a multi-party stakeholder consultative process, with the Commission's Bureau of Consumer Services invited to participate as a stakeholder

VI. FINDINGS OF FACT

A. Introduction and Overview

1. Pennsylvania-American Water Company is a Pennsylvania public utility that furnishes water and wastewater services to approximately 740,000 customers in a service territory covering portions of 36 counties across the Commonwealth.³⁵

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, 2020.³⁶

3. In its initial filing, the Company sought approval to implement alternative ratemaking mechanisms consisting of its proposed (1) multi-year rate plan consisting of calendar years 2021 and 2022; (2) Regionalization and Consolidation Surcharge; and (3) tracker and deferral mechanism for pension and other post-employment benefit expense.³⁷

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.³⁸ As proposed, the RY2 rates would remain in effect until the conclusion of PAWC's next base rate filing.

5. The Commission initiated an investigation of the Company's existing and proposed rates by Order entered May 21, 2020.

³⁵ PAWC St. 2, pp. 3-4.

³⁶ PAWC St. 1, p. 7.

³⁷ *Id.*, pp. 16-30.

³⁸ *Id.*, pp. 6-7, 17-28.

6. Pursuant to Section 1308(d) of the Public Utility Code, the Company's rate request was suspended by operation of law to January 28, 2021.

7. The Commission granted the request of the OCA to extend the effective date of new rates to March 15, 2021 – 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. Initially, eleven parties in addition to PAWC were granted active party status in this proceeding: I&E, OCA, OSBA, AK Steel, CEO, CAUSE-PA, PAWLUG, Jessica and Jeffrey LaBarge, Charles and Jennifer Spryn, Jan K. Vroman, and West Norriton Township. Pursuant to, 52 Pa.Code § 5.245, Complainants Jessica and Jeffrey LaBarge, Charles and Jennifer Spryn, Jan K. Vroman, and West Norriton Township, along with East Norriton Township, were removed from active status to inactive status because after due notice they did not participate in the evidentiary hearing.

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

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

11. AK Steel joined the 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.³⁹

13. The Settlement includes numerous commitments from PAWC to furnish COVID-19 relief measures to customers⁴⁰ and material enhancements to PAWC's low-income assistance programs.⁴¹

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 and the proof of revenues set forth in Appendix C to the Joint Petition.⁴²

B. Overall Position on Rate Increase

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

16. 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.⁴³

17. Mr. Rubin's determination is based on his position that customers might not be able to afford any increase.⁴⁴

³⁹ See Joint Petition, ¶¶ 23-26, 33 and 72; see also Joint Petition, Appendix D (Summary of Settlement Revenue Increase).

⁴⁰ Joint Petition ¶¶ 34-39.

⁴¹ *Id.*, ¶¶ 40-44 and 69.

⁴² *Id.*, ¶¶ 70-71.

⁴³ OCA St. 1, p. 10.

⁴⁴ OCA St. 1, pp. 10, 22, 29; PAWC St. 14-R, pp. 8-9.

18. 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 2022.⁴⁵

19. 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.⁴⁶

C. PAWC's Proposed Multi-Year Rate Plan

20. PAWC's initial filing proposed a MYRP consisting of RYs 1 and 2.⁴⁷

21. RY 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, RY 2 would cover the twelve months beginning January 1, 2021 and ending December 31, 2021.⁴⁸

22. The rates 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.⁴⁹

23. PAWC has agreed to withdraw its proposed RY2 increase if the Commission approves the Settlement.

⁴⁵ PAWC St. 15-R, pp. 20-21.

⁴⁶ See Joint Petition, Section II.C (discussing new COVID-19-related measures and other enhancements to the Company's low-income assistance).

⁴⁷ PAWC St. 1, p. 6.

⁴⁸ *Id.*

⁴⁹ *Id.*

D. Rate Base

1. Utility Plant in Service

24. 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.⁵⁰

25. 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.⁵¹

26. 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.⁵²

27. 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 to convince investors to commit their funds to the Company.⁵³

2. Average Versus Year-End Rate Base

28. 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.

⁵⁰ PAWC St. 1, pp. 8-9.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.⁵⁴

36. 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.⁵⁵ The Commission's decision was affirmed by the Commonwealth Court upon appeal by the OCA.⁵⁶

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

38. 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 \$ 131,810,840.⁵⁷ 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 \$2,631,930.⁵⁸

39. 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

⁵⁴ 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.

⁵⁵ *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Electric Division*, R- R-2017-2640058 (Opinion and Order entered October 4, 2018) ("*UGI Electric 2018*"), pp. 21, 24-26.

⁵⁶ *McCloskey v. Pa. Pub. Util. Comm'n*, 225 A.3d 192, 207-208 (Pa.Cmwlth. 2020) ("*McCloskey/UGI*").

⁵⁷ PAWC St. 5-R, p. 3.

⁵⁸ *Id.*, pp. 3-4.

in assessing the justness and reasonableness of the increase in revenues that the Settlement would produce.

3. Deduction from Rate Base of EADIT

40. OCA witness Smith proposed adjustments to require a highly accelerated amortization of certain “unprotected” Excess ADIT.⁵⁹

41. The unamortized portion of Excess ADIT is a deduction from rate base.⁶⁰ 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.

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

4. Cash Working Capital

43. 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.⁶¹

44. PAWC calculated its cash working capital requirement using the PUC-approved lead-lag method.⁶²

⁵⁹ See PAWC St. 10-R, pp. 11-24.

⁶⁰ PAWC St. 10-R, pp. 17-18.

⁶¹ PAWC St. 5, pp. 14-17.

⁶² *Id.*

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

46. Operating and maintenance expenses are an input to the calculation of cash working capital.⁶³

47. 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.

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

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

E. Revenues

50. 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.

51. While PAWC has been making substantial investments in new and replacement plants 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.⁶⁴

⁶³ *Id.*

⁶⁴ PAWC St. 1, p. 35.

52. 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 0.78%, respectively.⁶⁵

53. 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.⁶⁶

54. 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.

55. 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).⁶⁷

56. In its surrebuttal testimony and exhibits, the OCA withdrew its adjustments to the Company's operating revenues for declining residential consumption.⁶⁸

⁶⁵ PAWC St. 9, pp. 4-18; PAWC Exh. GPR-1.

⁶⁶ PAWC St. 9, pp. 19-33.

⁶⁷ PAWC St. 4-R, pp. 8-9.

⁶⁸ 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.1.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 context of the 2022 Rate Year."); OCA Exh. LA-8 (omitting Schedule C-1 adjustments for declining residential usage in RY2).

F. Operating and Maintenance Expenses

1. Payroll Costs – Prorating Wage and Salary Increases

57. 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 2022.⁶⁹

58. 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.⁷⁰

59. 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.⁷¹

60. 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.⁷²

61. 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

⁶⁹ 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.

⁷⁰ PAWC St. 6, p. 7; PAWC Exh. 3-B.

⁷¹ *Id.*

⁷² *Id.*

concomitant adjustments to reduce the expense for employee benefits by the ratio of the OCA's recommended level of salaries and wages.⁷³

62. Mr. Smith's proposed adjustments are based on his contention that RY2 should reflect "average" and not year-end conditions.⁷⁴

63. 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.

2. Performance Based Compensation (PAWC and Service Company)

64. 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).⁷⁵

65. Mr. Smith claimed that the proposed 50% and 100% disallowances reflect the portion of employee performance-based compensation that allegedly only benefits "shareholders."⁷⁶

⁷³ OCA St. 2, pp. 60-65 and 79-82; OCA St. 2-SR, pp. 45-48 and 50-53.

⁷⁴ *See id.*

⁷⁵ OCA Exh. LA-8, Schs. C-6, C-9 and C-10.

⁷⁶ OCA St. 2, pp. 68-77; OCA St. 2-SR, pp. 32-36 and 50.

66. 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 2012.⁷⁷

67. 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).

68. 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 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 peers⁷⁸ – the same evidence the Commission found to be determinative in *PPL Electric 2012* and in *UGI Utilities 2018*.

3. Capitalization Rate

69. 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).⁷⁹

70. 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.⁸⁰

⁷⁷ *Pa. Pub. Util. Comm’n v. PPL Elec. Utils. 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.

⁷⁸ PAWC St. 6-R, pp. 9-10; *see also* CONFIDENTIAL OCA Exh. LA-4, pp. 52-57.

⁷⁹ OCA Exh. LA-7, Sch. C-8A; OCA Exh. LA-8, Sch. C-8A.

⁸⁰ PAWC St. 6-R, p. 6.

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

4. Annual Depreciation

72. 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.⁸¹

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

G. Taxes

1. Taxes Other Than Income Taxes

74. 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 Rate Year 2.⁸²

75. The Settlement eliminates RY2, and these issues are moot if it is approved.

⁸¹ Joint Petition, ¶29.

⁸² OCA St. 2-SR, pp. 45 and 55.

2. Income Taxes – Excess ADIT

76. EADIT was created by the reduction in the federal corporate income tax rate from 35% to 21% under the Tax Cuts and Jobs Act.⁸³

77. 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.⁸⁴

78. Other components of EADIT are “unprotected” – the tax laws do not mandate the amortization period for ratemaking purposes.⁸⁵

79. 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.⁸⁶

80. OCA witness Smith proposed a steeply accelerated amortization period of only three years for all unprotected EADIT.⁸⁷

81. The vast majority of unprotected EADIT (\$140 million) is related to “repair” deductions.⁸⁸

⁸³ PAWC St. 10, p. 7; PAWC St. 10-R, pp. 2-3.

⁸⁴ PAWC St. 10, pp. 8-9 and 12-19.

⁸⁵ *Id.*

⁸⁶ *See* PAWC St. 10-R, p. 12.

⁸⁷ OCA St. 2, pp. 108-110.

⁸⁸ PAWC Exhibit JRW-2R, p. 1 (“Repairs”).

82. 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.⁸⁹

83. 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.⁹⁰

84. 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.⁹¹

85. 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 ($\38.7×3). 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.⁹²

86. 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.⁹³

⁸⁹ *Id.*, pp. 14-15.

⁹⁰ *Id.*, pp. 14-15.

⁹¹ *See* OCA Exhibit LA-6, p. 3, line 20, col. C.

⁹² *Tr.*, pp. 764-767.

⁹³ *Id.*

H. Fair Rate of Return

87. 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%.⁹⁴

88. OCA witness Rothschild proposed a proposed ROE of only 8.00% and 8.05%, respectively, for the Company's water and wastewater operations.⁹⁵

89. 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.⁹⁶

90. 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, 2020.⁹⁷

1. Capital Structure

91. PAWC's capital structure is well within the range of equity ratios of a proxy group of utilities.⁹⁸

92. Mr. Rothschild agreed with the Company's proposed capital structure for its wastewater operations.⁹⁹

⁹⁴ PAWC St. 13, pp. 5-6, 83-84.

⁹⁵ OCA St. 3, pp. 3, 82-83.

⁹⁶ PAWC St. 13-R, pp. 14-15; PAWC St. 13-RJ, p. 4.

⁹⁷ *October 20 QER*, p. 27.

⁹⁸ PAWC St. 13, pp. 76-77.

⁹⁹ OCA St. 3, p. 13.

93. For PAWC's water operations, Mr. Rothschild recommended a lower equity ratio based on an average of the equity ratios of his proxy group.¹⁰⁰

94. 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.¹⁰¹

2. Cost of Long-Term Debt

95. 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.¹⁰²

96. Mr. Rothschild did not dispute PAWC's proposed long-term debt cost rates.¹⁰³

3. Common Equity Cost Rate

97. Given PAWC's capital needs, it is critically important that PAWC have access to sufficient capital on reasonable terms.¹⁰⁴

¹⁰⁰ *Id.*

¹⁰¹ PAWC St. 13-R, pp. 112-13.

¹⁰² PAWC St. 13, pp. 76-77.

¹⁰³ OCA St. 3, p. 13.

¹⁰⁴ PAWC St. 13, p. 9.

98. 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.¹⁰⁵

99. The extreme volatility has led to high valuations of utility stocks and low dividend yields as investors move into dividend paying stocks.¹⁰⁶ Such valuations can have the effect of depressing dividend yields, resulting in overall lower estimates of the cost of equity. This effect must be taken into account in setting an ROE for the period that PAWC's rates will be in effect.¹⁰⁷

100. 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.¹⁰⁸

a. Discounted Cash Flow (DCF)

101. 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.¹⁰⁹

102. 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.¹¹⁰

¹⁰⁵ *Id.*, p. 11.

¹⁰⁶ PAWC St. 13, p. 19-29.

¹⁰⁷ *Id.*, pp. 24-25.

¹⁰⁸ *Id.*, pp. 29-36.

¹⁰⁹ *Id.*, p. 48.

¹¹⁰ *Id.*

103. 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.¹¹¹

104. 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 the Blue Granite case where there were management performance concerns and the Commission only had one witness to rely on due to credibility concerns.¹¹²

105. Mr. Rothschild's DCF calculation contained many flaws which are not reliable.¹¹³

b. Capital Asset Pricing Model (CAPM)

106. 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.¹¹⁴

107. 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.¹¹⁵

¹¹¹ *Id.*, pp. 53-54. *See also* PAWC St. 13-R, p. 19.

¹¹² OCA St. 3, p. 6.

¹¹³ PAWC St. 13-R, pp. 73-80.

¹¹⁴ PAWC St. 13, pp. 54-55.

¹¹⁵ *Id.*, pp. 59-60. Ms. Bulkley updated her traditional CAPM and Empirical CAPM analyses in PAWC St. 13-R, p. 19.

108. Mr. Rothschild disagreed with Ms. Bulkley's CAPM analysis and proposed changes.¹¹⁶

109. Ms. Bulkley explained the errors in his approach, and he 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.¹¹⁷

c. Expected Earnings Approach

110. 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.¹¹⁸

111. Mr. Rothschild stated that the Expected Earnings approach does not represent a market-derived cost of equity.¹¹⁹

112. Ms. Bulkley calculated a mean result for the Expected Earnings approach for the proxy group of 11.33% and a median of 11.72% (including AWK) and a mean of 11.29% and a medium of 10.84% excluding AWK.¹²⁰ These figures were later updated to 10.22% and 10.93%, respectively, including AWK, and 9.99% and to 10.86%, respectively, excluding AWK.

¹¹⁶ OCA St. 3, pp. 48-50; PAWC St. 3-R, pp. 82-92.

¹¹⁷ PAWC St. 13-R, pp. 97-98.

¹¹⁸ PAWC St. 13, p. 61.

¹¹⁹ PAWC St. 13, p. 63; PAWC St. 13-R, p. 106.

¹²⁰ PAWC St. 13, pp. 4, 63; PAWC St. 13-R, pp. 18-19.

4. Business Risks and Management Performance

113. 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.¹²¹

114. 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.¹²²

115. 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.¹²³

116. 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.¹²⁴

117. 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" than the water utilities in his proxy group.¹²⁵

¹²¹ PAWC St. 13, pp. 45-53; 68.

¹²² PAWC St. 2, pp. 7-9; PAWC St. 3, pp. 4-35; PAWC St. 8, pp. 4-14.

¹²³ PAWC St. 13, p. 75.

¹²⁴ *Id.*, p. 76.

¹²⁵ OCA St. 3, pp. 75-81; OCA St. 3-R, p. 14.

118. 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 Commission approval of that 25 basis point increase during a major economic crisis (the 2008 Great Recession).¹²⁶

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

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

120. 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.¹²⁷

I. PAWC's Withdrawals

121. PAWC has agreed to withdraw its proposal for a Regionalization and Consolidation Surcharge (RCS) if the Settlement is approved.

122. PAWC has agreed to withdraw its proposal for a Pension/OPEB Tracker if the Settlement is approved.

¹²⁶ PAWC St. 13-R, p. 110.

¹²⁷ *Id.*, pp. 101-02.

J. Rate Structure and Rate Design

1. Cost of Service Study

123. 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.¹²⁸

124. 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.¹²⁹

125. The OCA proposed three revisions to the cost of service study for PAWC's water operations excluding Steelton.¹³⁰

126. Ms. Heppenstall accepted those revisions with one modification that did not impact the results of the cost of service study in her rebuttal testimony.¹³¹

127. 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 Water Environment Federation (the WEF Manual).¹³² 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).¹³³

¹²⁸ PAWC St. 12, pp. 3-5.

¹²⁹ *Id.*, pp. 9-17; PAWC Exhs. 12-A (Water Operations Excluding Steelton) and 12-B (Steelton).

¹³⁰ OCA St. 1, pp. 37-40.

¹³¹ PAWC St. 12-R, pp. 2-3; PAWC Exhs. CEH-1R (Exhibit 12-A Revised).

¹³² *Id.*, pp. 19-24; PAWC Exhs. 12-C (SSS Wastewater Operations Excluding Sadsbury and Exeter); 12-D (Sadsbury) and 12-E (Exeter).

¹³³ PAWC St. 12, pp. 25-36; PAWC Exhs. 12-F (Scranton); 12-G (McKeesport) and 12-H (Kane).

128. 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.¹³⁴

129. Ms. Heppenstall allocated stormwater costs in the same manner as infiltration and inflow costs in a sanitary sewer system consistent with the WEF Manual.¹³⁵

2. Allocation of Wastewater Revenue Requirement to Water Operations

130. OSBA witness, Mr. Kalcic, and OCA witness, Mr. Rubin disagreed with PAWC's proposal to invoke the Commission's authority under Section 1311(c)¹³⁶ 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.¹³⁷

131. 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.¹³⁸

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

133. 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

¹³⁴ OCA St. 1, pp. 46-50.

¹³⁵ PAWC St. 12, pp. 25-35.

¹³⁶ 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.").

¹³⁷ OSBA St. 1 p. 16; OCA St. 1, pp. 64-70.

¹³⁸ See Joint Petition ¶ 69. E; PAWC St. 1, pp. 30-34.

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.¹³⁹

134. 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.¹⁴⁰

3. Allocation of Steelton Revenue Requirement to Other Water Operations

135. In its initial filing, PAWC proposed a 40% increase over RYs 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.¹⁴¹

136. 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.¹⁴²

137. 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 1329.¹⁴³

¹³⁹ See Joint Petition, Statement A, p. 7 n.12.

¹⁴⁰ OCA St. 1, p. 70.

¹⁴¹ PAWC St. 4, pp. 32-33; PAWC St. 12, p. 37.

¹⁴² See Appendix to PAWC's Main Brief (Revised Summary of Proof of Revenues).

¹⁴³ OCA St. 1, p. 70.

4. Separate Stormwater Rate

138. 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.¹⁴⁴

139. 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.

140. 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.¹⁴⁵

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

K. Recommendations for Actions Related to the COVID-19 Emergency

142. CAUSE-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 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

¹⁴⁴ OCA St. 1, pp. 41-49, pp. 49-50, 87-89 and 91-93.

¹⁴⁵ Joint Petition, ¶71 e.

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.¹⁴⁶

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

144. 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.¹⁴⁷

145. 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.¹⁴⁸

146. 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.¹⁴⁹

147. 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.¹⁵⁰

¹⁴⁶ See CAUSE-PA St. 1, pp. 44-45; 67-71.

¹⁴⁷ Joint Petition ¶ 34; CEO Stip. ¶ 1.

¹⁴⁸ Joint Petition ¶ 35; CEO Stip. ¶ 2; *see also* PAWC St. 17-R, p. 22.

¹⁴⁹ Joint Petition ¶ 36; CEO Stip. ¶ 3.

¹⁵⁰ Joint Petition ¶ 37; CEO Stip. ¶ 4.

148. 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.¹⁵¹

149. 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, 2020.¹⁵²

150. The Company agreed to increase its efforts to identify new sources of H2O grant funding.¹⁵³

151. 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.¹⁵⁴

152. 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.¹⁵⁵

L. Low-Income Customer Assistance

153. 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;

¹⁵¹ Joint Petition ¶ 38; CEO Stip. ¶ 5.

¹⁵² 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).

¹⁵³ PAWC St. 17-R, p. 24.

¹⁵⁴ CAUSE-PA St. 1, p. 45.

¹⁵⁵ PAWC St. 1-R, 82.

(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.¹⁵⁶

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

155. 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%.¹⁵⁷

1. H2O Discount Program Design

156. 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.¹⁵⁸

157. 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.¹⁵⁹

¹⁵⁶ See *id.*; PAWC St. 4, p. 46; PAWC St. 17-R, p. 3.

¹⁵⁷ PAWC St. 4, pp. 46-47.

¹⁵⁸ OCA St. 4, pp. 4, 29-30, 34-39.

¹⁵⁹ CAUSE-PA. St. 1, p. 63.

158. 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.¹⁶⁰

159. 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).¹⁶¹

160. 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.¹⁶²

161. 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.¹⁶³

162. 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.¹⁶⁴

163. 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

¹⁶⁰ PAWC St. 4-R, p. 17.

¹⁶¹ CEO Stip. ¶ 11.

¹⁶² OCA St. 4, pp. 4, 24-25.

¹⁶³ CAUSE-PA St. 1, p. 63.

¹⁶⁴ CEO St. 1, p. 7.

tiered bill discount into its bill analysis.¹⁶⁵ The Company does not have a mechanism in place to ask participants to update their income information does not maintain adequate information to categorize customers into tiers.¹⁶⁶

2. Hardship Fund

164. 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 \$500,000.¹⁶⁷

165. 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.¹⁶⁸

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

166. 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.¹⁶⁹

167. The Company already has extensive outreach to its customers and the communities it serves through participation in consumer education and local community events,

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ CEO St. 1, p. 7.

¹⁶⁸ Joint Petition ¶ 38; CEO Stip. ¶ 5.

¹⁶⁹ OCA St. 4, pp. 4, 68-69.

Dollar Energy Fund outreach, and the Company's extensive work with and through community-based organizations.¹⁷⁰

168. The Company directly communicates with customers on a regular basis through bill inserts, email campaigns, and social media.¹⁷¹

169. 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.¹⁷²

170. The Company maintains a dedicated internal position responsible for customer outreach and communications relative to its low-income programs.¹⁷³

171. The Company accepted several of CAUSE-PA witness Miller's recommendations relative to the Company's data collection, outreach, and reporting efforts.¹⁷⁴

172. 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.¹⁷⁵

¹⁷⁰ PAWC St. 17-R, p. 3.

¹⁷¹ *Id.*, p. 4.

¹⁷² *Id.*

¹⁷³ *Id.*, p. 8.

¹⁷⁴ *See* CAUSE-PA St. 1, pp. 51-52.

¹⁷⁵ Joint Petition ¶ 37.

173. 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 having trouble paying their bills or are seeking financial assistance are directed to PAWC's customer assistance programs.¹⁷⁶

174. 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.¹⁷⁷

175. 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.¹⁷⁸

4. Comprehensive Universal Service Plan

176. 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)

¹⁷⁶ *Id.*, ¶ 41. *See also* CEO Stip. ¶ 7.

¹⁷⁷ Joint Petition ¶ 43; CEO Stip. ¶ 9.

¹⁷⁸ CEO Stip. ¶ 10.

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.¹⁷⁹

177. Mr. Miller acknowledges that the Company has policies and procedure related to its low-income programs.¹⁸⁰

178. 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.¹⁸¹

5. Winter Shut-Off Moratorium

179. 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.¹⁸²

180. 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 56.251.¹⁸³

181. 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.

¹⁷⁹ CAUSE-PA St. 1, pp. 48-49.

¹⁸⁰ *Id.*, p. 48.

¹⁸¹ PAWC St. 14-R, p. 33.

¹⁸² CAUSE-PA St. 1, pp. 66-67.

¹⁸³ Joint Petition ¶ 45.

182. 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).¹⁸⁴

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

M. Service Quality and Customer Service Issues

1. Customer Performance Service Standards

184. 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.¹⁸⁵

185. The proposed performance standards are for call center annual average speed of answer, call center annual abandonment rate, average monthly response time for leaks (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.¹⁸⁶

186. 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."¹⁸⁷

¹⁸⁴ See 52 Pa.Code §56.100(a).

¹⁸⁵ OCA St. 5, pp. 29-31.

¹⁸⁶ *Id.*, p. 30.

¹⁸⁷ *Id.* See also OCA St. 5SR, p. 6.

2. Call Centers

187. 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.¹⁸⁸

188. 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.¹⁸⁹

189. OCA witness Alexander recommended that the Company be required to take steps to improve the monthly performance of its call centers.

190. The CSC's call centers are appropriately staffed to provide appropriate service over the year that balance's customer's needs and cost levels.¹⁹⁰

191. 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.¹⁹¹

192. 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 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.¹⁹²

¹⁸⁸ OCA St. 18-R, p. 3.

¹⁸⁹ *Id.*

¹⁹⁰ PAWC St. 18-R, p. 9.

¹⁹¹ OCA St. 5SR, pp. 4-5.

¹⁹² *Id.*, pp. 11-15; Tr. 805:2-806:10.

3. Customer Complaints

193. 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.¹⁹³

194. The Company reports performance in its Utility Consumer Activities Report and Evaluation ("UCARE") on a quarterly basis.¹⁹⁴

195. The Company also participates in the BCS' Customer & Utility Resolution Effort ("CURE") program to resolve customer complaints after they have been filed with BCS.¹⁹⁵

4. Customer Satisfaction Surveys

196. 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.¹⁹⁶

197. Ms. Alexander acknowledges that the Company already conducts routine customer satisfaction surveys of customers and measures customer satisfaction.¹⁹⁷

¹⁹³ OCA St. 5, p. 28.

¹⁹⁴ PAWC St. 17-R, p. 12.

¹⁹⁵ *Id.*

¹⁹⁶ OCA St. 5, p. 28.

¹⁹⁷ *Id.*, p. 18.

5. Training on Termination of Service

198. OCA witness Alexander recommended that the Company expand its training materials related to termination of service.¹⁹⁸

199. 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.¹⁹⁹

200. 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.”²⁰⁰

201. 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.²⁰¹

202. 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.

¹⁹⁸ OCA St. 5, pp. 17-18.

¹⁹⁹ PAWC St. 17-R, p. 14.

²⁰⁰ OCA St. 5, p.18.

²⁰¹ *See* PAWC Response to OCA-XX-III-4; OCA St. 5, p. 11.

6. Pressure Surveys and Pressures

203. OCA witness Fought recommended that if the Company elects to provide higher than 125 psi static pressure to serve some customers in order to serve other customers, the Company 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.²⁰²

204. 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."²⁰³

205. The Company's distribution system traverses challenging terrain and elevation changes.²⁰⁴

206. There are circumstances, such as providing service to high elevation areas, that sometimes demand providing service in excess of 125 psi.²⁰⁵

207. 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.²⁰⁶

²⁰² OCA St. 6, p. 6.

²⁰³ 52 Pa.Code § 65.6.

²⁰⁴ PAWC St. 3-R, p. 12.

²⁰⁵ *Id.*

²⁰⁶ *Id.*, p. 11.

7. Main Extensions

208. 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 Steubenville Pike, Bulger, PA.²⁰⁷

209. 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.²⁰⁸

210. 9812 Old Steubenville Pike, Bulger, PA is outside of the Company's service territory.²⁰⁹

211. 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.²¹⁰

212. The requested Company investment per residency is much higher than the Company is required to invest under Tariff Rule 27.1.²¹¹

213. 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

²⁰⁷ OCA St. 6, pp. 6-8.

²⁰⁸ PAWC St. 3-R, p. 13.

²⁰⁹ *Id.*

²¹⁰ *Id.*, p. 14.

²¹¹ *Id.*

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.²¹²

8. Sewage Backups

214. 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."²¹³

215. 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.²¹⁴

9. Tenant Issues and Protections

216. 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

²¹² *Id.*

²¹³ *See* Water Tariff Section 15; Wastewater Tariff Section Q.

²¹⁴ OCA St. 6SR, p. 5.

tenant occupied, and proposed recommendations related to the Company's compliance with the Discontinuation of Services to Leased Premises Act (DSLPA).²¹⁵

217. The Company agreed to revise its policies, procedures, and associated training materials relative to the DSLPA.²¹⁶

218. The Company agreed to revise its 10-day, 3-day, and 48-hour termination notices to include reference to and explanation of the DSLPA.²¹⁷

219. 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.²¹⁸

220. 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 and 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.²¹⁹

221. The Company agreed to ask all applicants for service whether the property is or will be occupied by a tenant.²²⁰

²¹⁵ See CAUSE-PA St. 2, pp. 27-29.

²¹⁶ Joint Petition ¶ 49.

²¹⁷ CAUSE-PA Stip. ¶ 1.

²¹⁸ *Id.*, ¶ 2.

²¹⁹ *Id.*, ¶ 3.

²²⁰ *Id.*, ¶ 4.

222. 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.²²¹

223. 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 DSLPA.²²²

224. 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.²²³

225. 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.²²⁴

226. 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; (b) to incorporate the voluntary discountenance requirements of the DSLPA; and (c) to

²²¹ *Id.*, ¶ 5.

²²² *Id.*, ¶ 6.

²²³ *Id.*, ¶ 7.

²²⁴ *Id.*, ¶ 8.

ensure that tenants are not required to appear in person to demonstrate tenancy or exercise their rights under the DSLPA.²²⁵

227. Mr. Vitek has also proposed the Company should comply with additional provisions with respect to the Water Services Act (WSA)²²⁶ and Utility Services Tenants Rights Act (USTRA)²²⁷ when terminating service to customers of an unregulated sewer authority.²²⁸

228. The Company has a process in place to ensure that municipal authorities comply with WSA termination requirements.²²⁹

229. 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.²³⁰

10. Language Access

230. CAUSE-PA witness Vitek made several recommendations related to the Company's policies, procedures, and training requirements related to language access.²³¹

231. 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

²²⁵ *Id.*, ¶ 9.

²²⁶ *See* 53 P.S. § 3102.101 *et seq.*

²²⁷ *See* 53 P.S. § 502(c), 68 Pa.C.S. § 399.3-7.

²²⁸ CAUSE-PA St. 2, pp.17-19.

²²⁹ PAWC St. 17-R, pp. 34-35.

²³⁰ *Id.*, pp. 35-36.

²³¹ *See* CAUSE-PA St. 2, pp. 27-29.

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.²³²

232. 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).²³³

233. The Company agreed to provide written documents to customers in Spanish, if requested.²³⁴

234. 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.²³⁵

235. The Company agreed to translate billing information into Spanish in compliance with 52 Pa.Code § 56.201(b) to and present the revised billing information to the low-income advisory group in advance of implementation to consider feedback from the group.²³⁶

236. 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.²³⁷

²³² Joint Petition ¶ 57; CAUSE-PA Stip. ¶ 8.

²³³ CAUSE-PA Stip. ¶ 1.

²³⁴ *Id.*, ¶ 2.

²³⁵ *Id.*, ¶ 3.

²³⁶ *Id.*, ¶ 4.

²³⁷ *Id.*, ¶ 5.

237. 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.²³⁸

238. The Company agreed to develop a language access plan within 180 days of a final order in this proceeding.²³⁹

11. Protection for Victims of Domestic Violence

239. CAUSE-PA witness Lewis made several recommendations related to the Company's policies, procedures, and training materials concerning victims of domestic violence.²⁴⁰

240. 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.²⁴¹

241. The Company agreed to implement specific domestic abuse training for its Compliance and Customer Advocacy teams, in consultation with PCADV.²⁴²

242. The Company agreed to implement training for CSRs to increase their knowledge about the availability of additional protections for victims of domestic violence and

²³⁸ *Id.*, ¶ 6.

²³⁹ *Id.*, ¶ 7.

²⁴⁰ *See* CAUSE-PA St. 3, pp. 33-36.

²⁴¹ Joint Petition ¶ 58; CAUSE-PA Stip. ¶¶ 9-10.

²⁴² Joint Petition ¶ 59; CAUSE-PA Stip. ¶ 11.

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.²⁴³

243. 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.²⁴⁴

244. 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.²⁴⁵

245. 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 protections, including against access by a third party who is currently listed or was previously listed on the customer account.²⁴⁶

246. The Company agreed to ensure training documents highlight the need for extra confidentiality protections for customers with PFAs and similar court orders.²⁴⁷

247. The Company agreed to establish a dedicated group of individuals from the Compliance and Customer Advocacy teams, who will be responsible for consulting and communicating with customers with PFAs and similar court orders.²⁴⁸

²⁴³ Joint Petition ¶ 60; CAUSE-PA Stip. ¶ 12.

²⁴⁴ Joint Petition ¶ 61; CAUSE-PA Stip. ¶ 13.

²⁴⁵ Joint Petition ¶ 62; CAUSE-PA Stip. ¶ 14.

²⁴⁶ Joint Petition ¶ 63; CAUSE-PA Stip. ¶ 15.

²⁴⁷ Joint Petition ¶ 64; CAUSE-PA Stip. ¶ 16.

²⁴⁸ Joint Petition ¶ 65; CAUSE-PA Stip. ¶ 17.

248. 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.²⁴⁹

249. 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.²⁵⁰

250. 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.²⁵¹

N. Tariff Changes

1. Limitation of Liability

251. PAWC proposes updating its limitation of liability tariff provisions to: (1) harmonize its water and wastewater tariffs;²⁵² (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

²⁴⁹ Joint Petition ¶ 66; CAUSE-PA Stip. ¶ 18.

²⁵⁰ Joint Petition ¶ 67; CAUSE-PA Stip. ¶ 19.

²⁵¹ CAUSE-PA Stip. ¶ 20.

²⁵² PAWC St. No. 4-R p. 18.

has not undertaken to prevent injury from fire;²⁵³ and (4) add a paragraph on customer indemnification based on similar provisions in other utilities' tariffs.²⁵⁴

252. A number of the provisions PAWC proposes adding to its tariffs are based on provisions in other utilities' PUC-approved tariffs.²⁵⁵

253. No party has challenged the principal aspects of PAWC's proposal.

254. The OCA only opposes the Company's proposed liability limitation for some negligent, reckless, or intentional acts.²⁵⁶

255. 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).²⁵⁷

256. PAWC's proposal protects PAWC and its customers from plaintiffs seeking "deep pockets" that are increasingly targeting utilities.²⁵⁸

257. Without limitations on liability, utilities could be financially stressed by exorbitant damage claims, thus jeopardizing the continued provision of essential public services.²⁵⁹

²⁵³ 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).

²⁵⁴ 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."

²⁵⁵ See 52 Pa.Code § 69.87.

²⁵⁶ OCA St. 5, pp. 22-23; OCA St. 5-R, pp. 18-19.

²⁵⁷ *Id.*, pp. 20-22.

²⁵⁸ *Id.*, pp. 23-24.

²⁵⁹ *Id.*, p. 23.

258. Utilities should be protected by reasonable limitations of liability because of the critical public services that they provide.²⁶⁰

2. Chapter 56 Customer Protections to Be Included in Tariff

259. OCA witness Alexander recommended that PAWC revise its tariff to include the essential consumer protections required by Chapter 56 of the Commission's regulations.²⁶¹

260. 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.²⁶²

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

261. 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."

262. The Company agreed to remove this language from its tariff.²⁶³

²⁶⁰ *Id.*

²⁶¹ OCA St. 5, p. 29; OCA St. 5SR, p. 11

²⁶² Joint Petition ¶ 69.

²⁶³ CEO Stip. ¶ 6.

VII. LEGAL STANDARDS AND BURDEN OF PROOF

The burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa.C.S. § 315(a). "It is well-established that the evidence adduced by a utility to meet this burden must be substantial." *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*, 409 A.2d 505, 507 (Pa.Cmwlth. 1980).

A public utility need not affirmatively defend every claim it has made in its filing, even those which no other party has questioned absent prior notice that such action is to be challenged. *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n*, 131 Pa.Cmwlth. 352, 359, 570 A.2d 149, 153 (1990) (citation omitted). *See also, Pa. Pub. Util. Comm'n v. Equitable Gas Co.*, 73 Pa. PUC 310, 359-360 (1990).

The Commission is not required to consider expressly and at length each contention and authority brought forth by each party to the proceeding. *University of Pennsylvania v. Pa. Pub. Util. Comm'n*, 86 Pa.Cmwlth. 410, 485 A.2d 1217 (1984). "A voluminous record does not create, by its bulk alone, a multitude of real issues demanding individual attention" *Application of Midwestern Fidelity Corp.*, 26 Pa.Cmwlth. 211, 230 n.6, 363 A.2d 892, 902, n.6 (1976). Further, a Commission decision is adequate where, on each of the issues raised, the Commission was merely presented with a choice of actions, each fully developed in the record, and its choice on each issue amounted to an implicit acceptance of one party's thesis and rejection of the other party's contention. *Popowsky v. Pa. Pub. Util. Comm'n*, 550 Pa. 449, 706 A.2d 1197 (1997), 1997 Pa. LEXIS 2756.

The Commission encourages parties in contested on-the-record proceedings to settle cases. *See*, 52 Pa.Code § 5.231. Settlements eliminate the time, effort and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails.

By definition, a “settlement” reflects a compromise of the parties’ positions, which arguably fosters and promotes the public interest. When parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest. *Pa. Pub. Util. Comm’n v. CS Water & Sewer Assocs.*, 74 Pa. PUC 767, 771 (1991).

VIII. DISCUSSION

A. Settlement Overview

The Non-Unanimous Settlement provides for increases in water and wastewater rates in a series of steps.²⁶⁴ Under the proposed “Step 1 Rate Increase”, the Company will increase rates by \$50.5 million on the effective date of the settlement.²⁶⁵ Next, under the proposed “Step 2 Rate Increase”, the Company will increase rates by an additional \$20 million, effective January 1, 2022. The Non-Unanimous Settlement also applies a temporary credit of \$10.5 million to the Step 1 and Step 2 rate increases, which represents a flow-back of the “Catch-Up” portion of the excess accumulated deferred income tax (EADIT), which was accumulated during the period of January 1, 2018 through December 31, 2020.²⁶⁶ From January 28, 2023 forward, the “Catch-Up” EADIT balance is extinguished and the rate credit no longer applies, effectively increasing the amount that the customers will be responsible to pay the utility upon receiving their utility bill for a third time as a result of the Non-Unanimous Settlement.²⁶⁷

Additionally, if the Joint Petition is approved, PAWC agrees to withdraw its proposed RY2 increase and its proposed RCS and Pension/OPEB Tracker.²⁶⁸

²⁶⁴ Joint Petition, ¶ 25.

²⁶⁵ Joint Petition, ¶ 25.

²⁶⁶ Joint Petition, ¶ 26.

²⁶⁷ See Joint Petition, Appendix D.

²⁶⁸ See Joint Petition, ¶ 33.

The Settlement includes enhancements to furnish COVID-19 customer relief measures²⁶⁹ and to augment PAWC's low-income assistance programs.²⁷⁰ Specifically, the Settlement waives reconnection fees for customers at or below 200% FPL for one year from the date of the final Order; waives the Hardship Fund good faith payment requirements for one year from the date of the final Order; allows self-certification of income for the Hardship Fund until the earlier of March 31, 2021 or the date on which the Executive Order is rescinded; expands community outreach; and increases PAWC's annual contribution of the Hardship Fund to \$500,000 for water and \$100,000 for wastewater.²⁷¹

The Joint Petitioners were 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 to the Joint Petition and the proof of revenues set forth in Appendix C to the Joint Petition.²⁷²

B. PAWC's Position Supporting the Settlement

PAWC filed a Statement in Support of Settlement, which was attached to the Joint Petition for Non-Unanimous Settlement as Statement A.

PAWC explained that the settlement of this case was achieved only after a comprehensive investigation of PAWC's operations and finances, which included: (1) extensive discovery (PAWC responded to approximately 700 interrogatories – many containing numerous subparts); (2) submission of direct, rebuttal and surrebuttal testimony covering a wide range of issues; (3) informal discovery; (4) public input hearings; and (4) negotiations among the Joint Petitioners as to the appropriate revenue level, rate structure, rate design, and other matters.²⁷³

²⁶⁹ *Id.*, ¶¶ 34-39.

²⁷⁰ *Id.*, ¶¶ 40-44 and 69.

²⁷¹ *See* Settlement, pp. 11-13.

²⁷² *Id.*, ¶¶ 70-71

²⁷³ PAWC Statement in Support, p. 2.

PAWC argues that the Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners and careful consideration of the COVID-19 emergency's impact on economic conditions in the Commonwealth that was based on a thorough and detailed analysis of all the evidence adduced in this case.²⁷⁴ The Company maintains that I&E's joining in, and fully supporting, the Settlement is strong evidence that the Settlement's terms and conditions are just, reasonable and in the public interest.²⁷⁵

PAWC explains that the Joint Petition embodies a so-called "black box" settlement because the Joint Petitioners have neither agreed upon, nor identified, their individual assessments of the various subsidiary components of the overall revenue requirement upon which they settled.²⁷⁶

1. Revenue Requirement

The Company argues it presented a compelling case for rate relief, as evidenced by, among other factors: (1) PAWC's base rates have not increased since January 1, 2018;²⁷⁷ (2) since the end of the fully projected future test year (FPFTY) in its last base rate case (December 31, 2018) PAWC has made significant investments in new and replacement water and wastewater plant with approximately \$409.1 million that has been or will be invested through the end of 2020²⁷⁸ and \$1.64 billion through the end of the second year (December 31, 2022) of the

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ PAWC Statement in Support, p. 11.

²⁷⁷ PAWC St. No. 1 (Nevirauskas), p. 9.

²⁷⁸ PAWC St. No. 3-R (Aiton), p. 2.

multi-year rate plan (MYRP) that PAWC had proposed in this case;²⁷⁹ and (3) at the same time, PAWC has experienced a continuing trend of declining per-customer water usage.²⁸⁰

Significantly, PAWC note that between the end of the FPFTY in PAWC's last base rate case (December 31, 2018) through the end of what had been the proposed RY2 in this case (December 31, 2022), the Company will have invested over \$1.64 billion in new plant and equipment, and the majority of this investment is in source of supply, treatment, distribution and collection assets.²⁸¹ PAWC explains that a material part of this total investment is being used to improve service to small, troubled water and wastewater systems that PAWC has acquired in furtherance of the Commission's policy to have larger, viable utilities acquire and upgrade smaller, less viable and service-troubled systems.²⁸² PAWC argues that to address all of these diverse capital needs, it must raise substantial amounts of debt and equity capital and, in the process, must demonstrate its ability to provide a reasonable return in order to convince investors to commit their funds for its use.²⁸³ Additionally, the Company presented evidence that its 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 2022.²⁸⁴

²⁷⁹ PAWC St. No. 1 (Nevirauskas), p. 8; *see also* PAWC St. No. 3 (Aiton), pp. 2-3 (describing PAWC's capital planning process and describing its planned water and wastewater projects, including many designed to address necessary replacements and gaining equipment); PAWC St. No. 3-R (Aiton), pp. 2-4 (explaining that the pandemic has not resulted in any delay or reduction of PAWC's planned capital projects).

²⁸⁰ PAWC St. No. 1 (Nevirauskas), pp. 35-37; *see also* PAWC St. No. 9 (Roach), pp. 4-33 (describing PAWC's analysis and calculation of continuing annual declines in its residential and commercial per-customer consumption of 893 gallons, or 2.18%, and 2,171 gallons, or 0.78%, respectively).

²⁸¹ PAWC St. 1 (Nevirauskas), p. 8; PAWC St. 1-R (Nevirauskas), p. 5.

²⁸² PAWC St. 1 (Nevirauskas), p. 5. *See* PAWC St. 8 (Grundusky) (identifying the small, troubled and non-viable water and wastewater systems PAWC acquired since its last base rate case and explaining the regulatory violations and service deficiencies each system experienced, which have been or will be addressed by PAWC).

²⁸³ PAWC Statement in Support, p. 17.

²⁸⁴ PAWC St. 15-R, pp. 30-31. As explained in PAWC Statement No. 15-R (Bishop), at pages 10-11, the results of the economic analysis detailed above are based on the IMPLAN econometric model, which is a widely recognized modeling platform used by various governmental agencies, universities, and public and private sector organizations for assessing the economic impacts of projects comparable to the construction projects reflected in PAWC's capital expenditures. Additionally, as explained by PAWC witness Bruce W. Aiton (PAWC St. 3-R, p. 4), the Company's need to continue to construct plant and equipment in order to furnish safe and reliable service has also been a "lifeline" to the many contractors and vendors with which it does business – vendors and contractors that would otherwise be struggling to survive and facing difficulties in continuing to employ their workforce during the economic downturn.

PAWC maintains that while it 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.²⁸⁵

PAWC argues that increased investment and declining load growth, have compromised its ability to earn a fair return on its investment absent rate relief, notwithstanding its efforts to control its O&M expenses.²⁸⁶ On a pro forma basis, 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.²⁸⁷ PAWC argues that those return levels are inadequate.²⁸⁸ Absent rate relief, PAWC argues that its financial results would deteriorate even further in 2023 and thereafter and could jeopardize its ability to appropriately invest in the infrastructure needed to maintain and improve its safety, reliability and customer service levels.²⁸⁹ PAWC argues it is particularly important for it to maintain and possibly improve its credit ratings because water and wastewater service is extremely capital intensive, as evidenced by the level of investment PAWC has made and will continue to make since its last base rate case.²⁹⁰

PAWC argues that the Settlement carefully balances (1) the right of the Company and its investors to earn a fair return and maintain and support its credit and enable it to raise the

²⁸⁵ PAWC St. 1 (Nevirauskas), p. 35.

²⁸⁶ PAWC St. 1-R (Nevirauskas), pp. 5-6 (explaining that PAWC has been able to the growth in non-depreciation O&M expense for its water operation to a compound annual growth rate of 1.76% since the end of the FPFTY in its last case).

²⁸⁷ PAWC St. 1 (Nevirauskas), p. 6 and Schedule RPN-2.

²⁸⁸ See PAWC St. 13 (Bulkley), pp. 3-4 (summarizing current market-determined equity cost rates and providing Ms. Bulkley’s recommended rate of return on equity).

²⁸⁹ PAWC Statement in Support, p. 19.

²⁹⁰ *Id.*

money necessary for the proper discharge of its public duties with (2) the right of customers to pay reasonable rates.²⁹¹

2. Cost Allocation, Revenue Allocation, and Rate Design

PAWC noted that it submitted eight separate cost of service studies, two of which relate to the Company's water operations and six related to its wastewater operations. PAWC explained that no witnesses for the Joint Petitioners' took issue with the cost of service studies and were in general agreement that they were an appropriate guide in allocating revenues among customer classes in order to move all classes closer to their indicated cost of service, recognizing that such movement should be tempered by the concept of gradualism.²⁹² However, I&E witness Sakaya recommended that PAWC develop and propose separate stormwater rates for the Company's CSS operations in its next base rate case. 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 wastewater or combined water/wastewater base rate filing.

PAWC argues that the allocation of the revenue increase under the Settlement Rates was subject to careful consideration and detailed negotiations among the Joint Petitioners and, as a result, the Joint Petitioners were able to reach agreement on the allocation among customer classes of the revenue increase under the Settlement Rates.²⁹³ PAWC notes that the allocation is within the range proposed by witnesses for the Joint Petitioners and, more importantly, it provides for reasonable movement toward the system average rate of return by the various customer classes as measured by the Company's cost of service study.²⁹⁴

²⁹¹ *Id.*, p. 24.

²⁹² *Id.*, p. 30.

²⁹³ PAWC Statement in Support, p. 30.

²⁹⁴ *Id.*

3. Storm Water Rates

PAWC notes that witnesses for I&E, in their written testimony, recognized that it was not feasible to establish a stormwater rate for the Company's combined sewer systems within a timeframe as short as this case.²⁹⁵ I&E then recommended that the Company propose such a rate in its next base rate case. The Company submitted extensive testimony (PAWC St. 3-R), however, explaining that the data collection and analysis needed to determine the feasibility of implementing a stormwater rates and reviewing possible approaches to doing so would take more time than I&E's witnesses had anticipated.²⁹⁶

After careful consideration of this issue, PAWC explains that it reached a reasonable resolution with I&E.²⁹⁷ If the Settlement is approved, the Company agrees to propose potential recovery and rate methodology options for stormwater costs of combined sewer systems in its next general wastewater or combined water/wastewater base rate filing.²⁹⁸ 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.²⁹⁹ PAWC also agrees that, at intervals of approximately one year and two years after entry of the Commission's final Order approving the Settlement in this proceeding, unless the Company files a wastewater or combined water/wastewater general base rate case prior to either of those times, it will meet with the parties to this case to provide progress updates and discuss potential cost recovery methods under consideration.³⁰⁰

²⁹⁵ *Id.*, p. 33.

²⁹⁶ *Id.*, p. 33.

²⁹⁷ *Id.*, pp. 33-34.

²⁹⁸ *Id.*, p. 34.

²⁹⁹ *Id.*, p. 34.

³⁰⁰ *Id.*, p. 34.

4. Reasonableness of the Settlement Rate Structure and Rate Design

PAWC explains that establishing a reasonable revenue allocation requires a careful balancing of the countervailing interests of the non-utility parties, and that this aspect of a rate proceeding is particularly well suited to achieving a reasonable overall outcome based on the give-and-take of the settlement process.³⁰¹ PAWC explains that this is what occurred in the Settlement in this case, which resolved contested issues involving revenue allocation and rate design among the Joint Petitioners, who represent, in the case of I&E, the interests of all customers, all customer classes and the public interest generally, and as to PAWLUG, the interests of non-residential customers that include members of the commercial, municipal and industrial classes.³⁰²

PAWC notes that the Joint Petitioners are in general agreement that the Settlement Rates make appropriate progress in moving all classes closer to their cost of service consistent with the principle of gradualism.³⁰³ With respect to rate design, PAWC argues that the Settlement Rates reflect the need to recover the customer component of total cost of service in the service charge, while recognizing that increases in the service charges can impact low-usage customers.³⁰⁴

5. Response to Other Parties' Objections to the Settlement

In response to OCA's argument that PAWC could adopt no rate increase and still be able to achieve overall rates of return of 7.70% and 2.84% for its water and wastewater operations, respectively³⁰⁵, PAWC argues that those return rates were calculated by OCA and

³⁰¹ *Id.*, 35.

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.*

³⁰⁵ OCA Comments, p. 5.

reflect all of its proposed adjustments to rate base, expenses and incomes taxes.³⁰⁶ As explained in PAWC’s Main and Reply Briefs, PAWC argues that OCA’s adjustments have no merit and are entirely contrary to settled law established by recent PUC and appellate court precedent.³⁰⁷

Moreover, PAWC argues that the OCA-calculated overall return rate for PAWC’s wastewater operations of 2.84% is 163 basis points below the Company’s cost of long-term debt (4.47% at December 31, 2021).³⁰⁸ Although OCA makes the claim that its “no increase” position would allow PAWC to recover all of its expenses and still be able to realize a “fair rate of return,” PAWC argues it can hardly be possible to realize a “fair rate of return” when the OCA is proposing to allow PAWC an opportunity to earn an overall rate of return on its wastewater operations that is below its actual cost of long-term debt.³⁰⁹

Additionally, PAWC submits that the rates of return calculated by the OCA in support of its “no increase” recommendation would leave PAWC with an authorized return that is well below that of virtually all water utilities in the United States for the last decade and that OCA’s recommended ROEs (8.00%) is also well below the 9.90% ROE authorized by the Commission for water utility distribution system improvement charges based on data through September 28, 2020.³¹⁰

PAWC notes that OSBA asserts that substantial evidence does not exist to support the increase agreed upon in the Settlement, but PAWC argues that OSBA only relies upon selected general economic statistics and did not address the Company’s actual revenue requirements in this proceeding.³¹¹ Further, PAWC argues CAUSE-PA focuses on the alleged

³⁰⁶ PAWC Reply to Comments, p. 4.

³⁰⁷ *Id.*

³⁰⁸ PAWC Reply to Comments, p. 5; *see* PAWC Exhibit No. 13-A, Sch. 9, p. 1.

³⁰⁹ PAWC Reply to Comments, p. 5.

³¹⁰ PAWC Reply to Comments, p. 5; *see* PAWC Statement in Support, p. 19 & PAWC Reply Br. (R.B.), pp. 36-37.

³¹¹ PAWC Reply to Comments, p. 5-6; *see* OSBA Comments of the Office of Small Business Advocate to the Non-Unanimous Settlement (OSBA Comments), p. 4.

effects of any increase only on low-income customers, without addressing utility revenue requirements.³¹²

In response to the argument that rate increases are necessarily unreasonable considering the ongoing COVID-19 pandemic, PAWC notes that the Commission, by approving rate case settlement for UGI Utilities, Inc. – Gas Division (UGI Gas)³¹³ and rejecting the ALJs’ modifications to a partial settlement in a base rate increase for Philadelphia Gas Works (PGW) which would have delayed the increase for six months due to the COVID-19 pandemic³¹⁴, has made clear that the COVID-19 emergency is not a basis for a general denial of rate increases.³¹⁵ PAWC argues that the approval of these settlements also does not reflect the Commission’s agreement with the OCA’s general concern that future test year projections in current rate cases are unreliable as a result of the pandemic.³¹⁶

The Company notes, in opposing the Settlement, both the OCA and CAUSE-PA cite to their briefs and witness testimony regarding alternative theories of ratemaking, while the OSBA references its own briefs citing selected economic statistics.³¹⁷ PAWC argues that the long-standing principles of ratemaking consistently applied by the Commission requires a proper balancing of customer interests and the interests of utility investors even during times of economic stress.³¹⁸

³¹² PAWC Reply to Comments, p. 6; *see generally* Objections of CAUSE-PA to the Joint Petition for Non-Unanimous Settlement of Rate Investigation (CAUSE-PA Objections).

³¹³ *Pa. Pub. Util. Comm’n v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2019-3015162 (Oct. 8, 2020).

³¹⁴ Opinion and Order, *Pa. Pub. Util. Comm’n v. Phila. Gas Works*, R-2020-3017206 (Order entered Nov. 19, 2020).

³¹⁵ PAWC Reply to Comments, p. 6.

³¹⁶ PAWC Reply to Comments, p. 6; *see* OCA Comments, p. 4.

³¹⁷ PAWC Reply to Comments, p. 7; *see* OCA Comments, p. 2; CAUSE-PA Objections, p. 2; OSBA Comments, p. 3.

³¹⁸ PAWC Reply to Comments, p. 7; *see* PAWC Main Brief (M.B.), pp. 7-10; PAWC R.B., pp. 7-18.

Furthermore, OCA argues that there is no need for a rate increase because PAWC could reduce its investment if it is “concerned” about available operating revenues.³¹⁹ PAWC argues that such an approach is clearly not in the public interest, as PAWC’s investments will benefit customers and support significant economic activity and jobs in Pennsylvania.³²⁰

Regarding OCA’s proposal of a three-year amortization period, PAWC argues OCA is attempting to characterize the EADIT at issue as “ratepayer-supplied capital” that PAWC is seeking to “retain” for “an excessive period of time.” PAWC submits that every element of the OCA’s characterization is incorrect, explaining that accelerating the amortization of EADIT is the equivalent of accelerating the repayment of the federal government’s zero cost tax loan and that the capital represented by that loan must be replaced with funds obtained from investors at substantial cost.³²¹

CAUSE-PA objects to the Settlement on the ground that it believes the proposals are “wholly inadequate” to mitigate the rate increase under the Settlement, particularly during the COVID-19 pandemic.³²² In support of its objection, CAUSE-PA relies upon its projected number of low-income individuals in PAWC’s service territory as well as its “affordability” analysis. The Company explains that these analyses are problematic due to the methodologies used in estimating the number of individuals in various income levels and the water usage of those individuals and notes the inherent contradiction in CAUSE-PA opposing any rate increase at the same time as it emphasizes the critical need for PAWC to ensure continued safe and reliable water and wastewater service during the COVID-19 emergency to all of its customers.³²³

³¹⁹ PAWC Reply to Comments, p. 8; *see* OCA Comments, p. 5.

³²⁰ PAWC Reply to Comments, p. 8.

³²¹ PAWC Reply to Comments, p. 9-11.

³²² CAUSE-PA Objections, p. 13.

³²³ PAWC Reply to Objections, p. 15-16; *see* PAWC St. No. 1-R, pp. 61-84.

OCA generally objects to the Settlement rates based on a claim that the proposed tariffs and proofs of revenues appended to the Joint Petition do not provide sufficient information to determine whether the Settlement rates are “just and reasonable.”³²⁴ PAWC responds, however, that the Settlement rates make appropriate progress in moving all classes closer to their cost of service consistent with the principle of gradualism and reflect the need to recover the customer component of total cost of service in the service charge, while recognizing that increases in the service charges can impact low-usage customers.³²⁵

OCA also opposes the Settlement because it seeks Commission approval to allocate a portion of PAWC’s wastewater revenue requirement to water customers pursuant to 66 Pa.C.S. § 1311(c).³²⁶ In response, PAWC argues that the proposed allocation of the wastewater revenue requirement to water operations as provided in the Settlement is in the public interest because it will mitigate the rate increase for wastewater customers without significantly increasing rates for water customers and it will promote the policy goals of successfully implementing Section 1329 and encouraging the regionalization and consolidation of water and wastewater systems through acquisitions.³²⁷

Finally, OCA opposes Joint Petitioners’ request to the Commission to approve PAWC’s proposed revisions to its water and wastewater limitation of liability tariff provisions.³²⁸ The Company argues that the Settlement’s proposed tariff provisions are reasonable under Pennsylvania law, consistent with other Commission-approved tariffs, and consistent with Commission policy.³²⁹ PAWC argues that, as a matter of public policy, tariff provisions that

³²⁴ PAWC Reply to Objections, p. 18; *see* OCA Comments, pp. 8-10.

³²⁵ PAWC Reply to Objections, p. 21.

³²⁶ OCA Comments to Settlement pp. 10-11.

³²⁷ PAWC Reply to Objections, p. 21-22; *see* PAWC M.B., pp. 55-56; PAWC R.B., p. 58.

³²⁸ PAWC Reply to Comment, p. 24; *see* OCA Comments, pp. 12-13.

³²⁹ PAWC Reply to Comment, p. 24; *see* PAWC M.B., pp. 72-74; PAWC R.B., pp. 70-71.

limit the liability of public utilities for acts beyond their control are in the public interest and have historically been permitted by the Commission.³³⁰

C. I&E’s Position Supporting the Settlement

I&E filed a Statement in Support of Settlement, which was attached to the Joint Petition for Non-Unanimous Settlement as Statement B.

I&E explains that the Settlement Agreement is a “Black Box” agreement, which does not specifically identify the resolution of certain disputed issues.³³¹ Instead, an overall increase to base rates is agreed to and Joint Petitioners retain all rights to further challenge all issues in subsequent proceedings. A “Black Box” settlement benefits ratepayers as it allows for the resolution of a proceeding in a timely manner while avoiding significant additional expenses.³³²

I&E further notes that while not all parties entered into this settlement and hearings ultimately still had to be held, additional days of litigious hearings, briefing, and further involvement of the ALJ would have been required and added time and expense to an already cumbersome and complex proceeding would have been incurred had this settlement not been achieved.³³³ I&E explains that the request for approval of the Settlement is based on its conclusion that the Settlement meets all the legal and regulatory standards necessary for approval.³³⁴

I&E argues that the revenue increase agreed to by I&E and the Company recognizes that while PAWC may be entitled to a rate increase, the COVID-19 pandemic is still occurring and,

³³⁰ PAWC Reply to Comment, p. 24.

³³¹ I&E Statement in Support, p. 6; *see Pa. Pub. Util. Comm’n v. Venango Water Co.*, Docket No. R-2014-2427035, 2015 WL 2251531, at *11 (Apr. 23, 2015 ALJ Decision) (adopted by Commission via Order entered June 11, 2015); *see also* 52 Pa.Code §5.231.

³³² I&E Statement in Support, p. 6.

³³³ I&E Statement in Support, p. 6-7.

³³⁴ I&E Statement in Support, p. 7.

thus, steps must be put in place to ease the burden on ratepayers.³³⁵ I&E explains that it agreed to settlement in the amount of \$70.5 million with a \$10.5 million rate credit only after it conducted an extensive investigation of PAWC’s filing and related information obtained through the discovery process to determine the amount of revenue PAWC needs to provide safe, effective, and reliable service to its customers.³³⁶ Further, I&E notes that the nature of the stepped increase serves to benefit customers in these uncertain economic times resulting from the COVID-19 pandemic and that the EADIT credit provides another important reduction to this rate increase.³³⁷

I&E explains that the additional revenue in this proceeding is base rate revenue and has been agreed to in the context of a “Black Box” settlement. I&E argues that this increased level of “Black Box” revenue adequately balances the interests of ratepayers and PAWC.³³⁸ PAWC will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the initial request.³³⁹ Mitigation of the level of the rate increase benefits ratepayers and results in “just and reasonable rates” in accordance with the Public Utility Code, regulatory standards, and governing case law.³⁴⁰ Based on the current caselaw and statutes, I&E explains that it has found nothing that would prevent a utility from implementing a rate increase during a pandemic.³⁴¹ I&E argues that it is important that utilities are able at all times to provide safe and reliable service and the efforts a utility puts forth to provide this service are not without costs. I&E acknowledges the need for a mitigated rate increase, while also noting that financially healthy utilities are beneficial to customers who rely on them to provide safe

³³⁵ *Id.*

³³⁶ *Id.*, p. 8.

³³⁷ *Id.*

³³⁸ *Id.*, p. 9.

³³⁹ *Id.*

³⁴⁰ *Id.*; see 66 Pa.C.S. § 1301.

³⁴¹ *Id.*, p. 10.

and reliable service.³⁴² The rate increase agreed upon in the instant settlement balances those interests.³⁴³

I&E notes that PAWC has agreed not to implement a DSIC any earlier than April 1, 2022. Furthermore, the Company will not be eligible to include plant additions in the DSIC until the Company's total net plant balances reach the levels established in the PAWC 2020 Base Rate Case using the adjusted utility plant in service balances for December 31, 2021 as referenced in Exhibit CEC-1R, Sch. A.

I&E argues that that this provision is in the public interest and benefits both PAWC and its ratepayers. First, PAWC benefits because it will have access to DSIC funding for necessary infrastructure improvements which helps to ensure PAWC is able to meet its obligation to provide its customers with safe and reliable service.³⁴⁴ Second, customers will benefit because they will not need to fund the DSIC any earlier than April 1, 2022.³⁴⁵ Ratepayers will have a defined period of time during which they will be relieved from paying any DSIC costs which affords some level of rate stability, and, in addition, even when the DSIC charge becomes effective, the customers will benefit from the assurance that improved infrastructure will allow the Company to continue to provide safe and reliable service.³⁴⁶

Regarding revenue allocation and rate design, I&E explains it was particularly concerned about certain divisions subsidizing other divisions. I&E witness Ethan Cline explained that PAWC was proposing to allocate a subsidy almost \$34.6 million in costs across water customers, with approximately \$32.9 million coming from wastewater and approximately \$1.7 million coming from Steelton water operations.³⁴⁷ Mitigating this subsidy was important to I&E

³⁴² *Id.*

³⁴³ *Id.*

³⁴⁴ *Id.*, p. 12.

³⁴⁵ *Id.*

³⁴⁶ *Id.*

³⁴⁷ I&E St. No. 4, p. 26.

because for while most PAWC wastewater customers also receive water service from PAWC, only 9.2% of PAWC water customers also receive wastewater service from PAWC.³⁴⁸ The customers who are receiving only water service from PAWC receive no discernable benefit from subsidizing wastewater customers.³⁴⁹ Therefore, I&E argues it is reasonable and in the public interest to mitigate the subsidy paid for by these customers.³⁵⁰

I&E also addresses the residential customer charge for customers. I&E argues that this fixed charge provides PAWC with a steady, predictable level of income which will allow PAWC to recover certain fixed costs such as metering, billing, and payment processing and limiting the requested increase benefits ratepayers by allowing them to save more money through conservation.³⁵¹ I&E argues that shifting costs to the volumetric portion of a customer's bill allows for the immediate realization of the benefit of conserving usage and designing rates to allow customers to have greater control of their utility bills is in the public interest.³⁵²

As part of the settlement agreement reached by I&E and the Company, the Company has agreed to withdraw its proposal for a pension and OPEB tracker. This tracker mechanism was opposed by I&E. As explained by I&E witness Christine Wilson, a tracker mechanism would not be appropriate because these expenses are non-extraordinary, routine business expenses.³⁵³ I&E explains that its willingness to enter into this settlement hinged in large part on the withdrawal of this tracker. I&E explains that such trackers should only be used for extraordinary circumstances, not for routinely incurred operating expenses such as pensions and OPEBs, since cost trackers can lessen the regulatory scrutiny of evaluating the prudence of

³⁴⁸ I&E Statement in Support at 14; *see* I&E Ex. No. 4, Sch. 5.

³⁴⁹ I&E Statement in Support, p. 14.

³⁵⁰ *Id.*

³⁵¹ *Id.*, p.16.

³⁵² *Id.*

³⁵³ *Id.*, p. 17; *see* I&E St. No. 1-SR, p. 26.

related costs.³⁵⁴ Therefore, I&E believes that withdrawing the Pension and OPEB tracker is in the public interest.

Per the settlement, the Company as agreed to withdraw its proposed Regionalization and Consolidation Surcharge (RCS). In testimony, I&E opposed the RCS and noted it would be more appropriate for the Company to recover the increased return related to newly acquired rate base in a base rate proceeding where the parties can review the new claims for justness and reasonableness before the rates go into effect.³⁵⁵ Witness Wilson noted that PAWC proposed that the parties be able to review the amounts collected through the surcharge in a retrospective manner in the Company's next base rate case filing. However, as she explained, at that point it would be very difficult to make any adjustments for expenses the parties did not believe were prudently incurred.³⁵⁶ Further, I&E witness Cline noted that as the surcharge applied only to existing customers and not to the customers of acquired systems, it would require existing customers to begin paying the revenue shortfall related to rate under recovery and capital investment costs while the acquired system customers continue to enjoy rates potentially well below their cost of service until a future base rate case, which occurrence could be even further delayed by the implementation of the proposed RCS.³⁵⁷

For the reasons explained by the I&E witnesses, I&E's willingness to enter into this settlement hinged, in large part, on PAWC's willingness to withdraw the RCS.³⁵⁸ I&E recognizes the withdrawal of this mechanism by PAWC as a significant concession and maintains that it is the more appropriate forum to recover the increased return related to newly acquired systems in base rate cases. Therefore, I&E argues that approval of the settlement, in

³⁵⁴ *Id.*

³⁵⁵ I&E Statement in Support, p. 18.

³⁵⁶ *Id.*; see I&E St. 1, p. 19.

³⁵⁷ I&E Statement in Support, p. 18.

³⁵⁸ *Id.*

this regard, is in the public interest as it results in withdrawal of the RCS which allows for the parties to review these items for justness and reasonableness in the context of a base rate case.³⁵⁹

D. PAWLUG's Position Supporting the Settlement

PAWLUG filed a Statement in Support of Settlement on November 4, 2020. PAWLUG argues the Settlement is in the public interest for multiple reasons. PAWLUG argues that, as a result of the Joint Petition, expenses incurred by the Joint Petitioners and the Commission for completing this proceeding will be less than they would have been if the proceeding had been fully litigated.³⁶⁰ Additionally, the Joint Petition reflects compromises on all sides presented without prejudice to any position any Joint Petitioner may have advanced so far in this proceeding or to any position any party may advance in future proceedings involving the Company.³⁶¹

In addition, PAWLUG explains that the Joint Petition specifically satisfies its concerns in this proceeding. PAWLUG's testimony opposed the Company's proposed RCS on grounds that the proposal would allow PAWC to recover costs of acquisition through single issue ratemaking despite a lack of policy or public interest basis supporting recovery of such costs through an automatically adjusted surcharge.³⁶² Although PAWLUG primarily recommended that the Commission deny the RCS, PAWLUG also proposed minimum conditions that could mitigate some of the adverse customer impacts and potential interclass subsidization resulting from the proposed surcharge.³⁶³ PAWLUG also proposed that PAWC adopt a third rate block for the Commercial rate class in order to ensure large users within the Commercial rate class pay rates reflective of cost of service.³⁶⁴ Finally, PAWLUG opposed a proposal from AK Steel to

³⁵⁹ *Id.*, 19.

³⁶⁰ PAWLUG Statement in Support, ¶ 7.

³⁶¹ *Id.*

³⁶² *See* PAWLUG Statement No. 1, pp. 2-8; PAWLUG Statement No. 1-S, p. 3-8.

³⁶³ *See id.*

³⁶⁴ *See* PAWLUG Statement No. 1, pp. 8-12; PAWLUG Statement No. 1-S, p. 2-3.

shift costs from the 4th Industrial rate block to other Industrial customers by reducing the percentage increase to the 4th rate block in contravention with PAWC's Cost of Service Study.³⁶⁵

PAWLUG explains that the Joint Petition provides a reasonable resolution to these issues by: (1) providing for a reasonable compromise among the Parties concerning the water system rate increase, distribution of such increase among customer classes, rate design, and reduction to the wastewater revenue requirement allocated to water customers³⁶⁶; and (2) rejecting the proposed RCS and other alternative ratemaking mechanisms that would have unreasonably increased costs for PAWLUG members.³⁶⁷

In conclusion, PAWLUG submits that the Settlement is in the public interest and adheres to the Commission policies promoting negotiated settlements. It argues that the Settlement was achieved after numerous settlement discussions and, although the Joint Petitioners invested time and resources in the negotiation of the Joint Petition, the process allowed the Parties, and the Commission, to avoid expending the substantial resources that would have been required to fully litigate this proceeding while still reaching a just, reasonable, and non-discriminatory result.³⁶⁸

E. AK STEEL's Position Supporting the Settlement

On November 2, 2020, AK Steel filed a Statement in Support of Settlement and joined the Settlement. It did not file a Main Brief or Reply Brief. The Statement in Support of Settlement does not contain any substantive argument.

³⁶⁵ See PAWLUG Statement No. 1-R, p. 2.

³⁶⁶ PAWLUG Statement in Support, ¶ 8; see Joint Petition, p 8-10, 17-19

³⁶⁷ PAWLUG Statement in Support, ¶ 8; see *id.*, p.11.

³⁶⁸ PAWLUG Statement in Support, ¶ 9.

F. OCA's Position and Objections to the Settlement

OCA's Comments in Opposition address the Settlement provisions covering the proposed \$70.5 million revenue requirement, the proposed 20-year amortization of the unprotected EADIT, the proposed \$29 million wastewater subsidy, the lack of a commitment for a stormwater rate proposal in the next proceeding, the disparate rate impact, and the proposed tariff language that includes PAWC's limitation of liability language.

1. Revenue Requirement (¶¶ 23-26, 30)

The OCA submits PAWC could continue operations, recover all of its expenses, and earn a profit with no revenue increase. While the Company would perhaps not generate as much profit as the Company would like, the Company would still be earning a reasonable rate of return. OCA submits that the overall rate of return of 7.70% for water and 2.84% for wastewater without any change in rates is more than adequate in this time of a pandemic.³⁶⁹

OCA argues that permitting the Company to increase its base rates by \$70.5 million through multiple steps is not supported by the evidence of record in this case.³⁷⁰ OCA argues that, in these extraordinary times, maintaining current rates is a reasonable—and temporary—outcome until fewer customers are suffering financially and the future is more ascertainable for ratemaking.³⁷¹ OCA maintains that PAWC's water rates should be reduced, and a modest increase in wastewater rates is all that could be supported in a business as usual case. OCA argues that even the Step 1 increase of \$50.5 million (7.06%) in January 2021 is not supported by record evidence and would still constitute a sizeable increase in rates while PAWC's customers continue to deal with the pandemic and its economic impact.³⁷²

³⁶⁹ OCA's Objections to Settlement, p. 4; *see* OCA App. A.1, Table I Total Water and Table I Total Wastewater.

³⁷⁰ OCA Objections to Settlement, p. 4.

³⁷¹ OCA Objections to Settlement, p. 4.

³⁷² OCA Objections to Settlement, p. 4-5.

If the OCA's recommendation that no increase be approved as a result of the ongoing COVID-19 pandemic and the related economic impact on PAWC's customers is adopted, it argues that the resulting overall rates of return of 7.70% for water (with a capital structure of 51.64% cost of common equity and 48.3% cost of debt), and 2.84% for wastewater (with a capital structure of 50.37% cost of common equity and 39.44% cost of debt) represent a fair rate of return that balances the interests of consumers and shareholders and would be in the public interest.³⁷³ As such, OCA argues there is record evidence showing that it is not necessary to increase rates in order for PAWC to earn a fair rate of return.

OCA maintains that if PAWC is concerned about operating revenues during this uncertain time and moving forward, PAWC could defer new construction projects that are not necessary to ensure the current provision of safe and reliable service to existing customers.³⁷⁴ OCA argues that after the COVID-19 pandemic has passed, PAWC can file again for rate increases when the Company's financial projections will be founded on more stable, and thus predictable, economic conditions.³⁷⁵ OCA maintains that there is no need for the rate increase contained in the Non-Unanimous Settlement, particularly given the economic hardships and uncertainties accompanying the COVID-19 pandemic as well as the uncertainties surrounding the FPFTY projections.³⁷⁶

Under the Non-Unanimous Settlement, unprotected EADIT will be amortized over a 20-year period.³⁷⁷ OCA argues that, while a 20-year amortization period is preferable to the approximately 40-year amortization period under ARAM originally proposed by the Company, it is still unreasonable because PAWC will retain the ratepayer-supplied capital for an excessive period of time, particularly compared to the three-year period the Company collected it

³⁷³ OCA Objections to Settlement, p. 5; *see* OCA App. A.1, Table I(A).

³⁷⁴ OCA Objections to Settlement, p. 5.

³⁷⁵ OCA Objections to Settlement, p. 5.

³⁷⁶ OCA Objections to Settlement, p. 5-6; *see* OCA St. 1, p.22-24.

³⁷⁷ OCA Objections to Settlement, p. 6; *see* Joint Petition, ¶ 30.

over.³⁷⁸ OCA further argues that while PAWC is retaining those funds for a longer period of time, the revenue requirement and, ultimately, customer rates are higher than they would otherwise be.³⁷⁹

Additionally, OCA maintains that the 20-year amortization is still unreasonable as it does not come close to matching the return of the unprotected EADIT to the ratepayers who paid the monies that contributed to the EADIT at issue.³⁸⁰ OCA submits that, from both a traditional ratemaking approach and the realities of the current economic and public health situation due to the pandemic support returning customer-supplied capital to the customers who supplied the capital in a reasonable, shorter time period than 20 years is warranted.³⁸¹ OCA notes that PAWC utilizes a three-year amortization for other impacts of the TCJA that also are not subject to IRS normalization requirements.³⁸² OCA's position that the Commission adopt a three-year amortization period for PAWC's unprotected EADIT is unchanged by the proposed 20-year amortization period for unprotected EADIT contained in the Non-Unanimous Settlement.³⁸³

OCA argues that increasing rates in the manner set forth in the Non-Unanimous Settlement does not mitigate its concerns and the Commission should not accept PAWC's projections and not should not adopt the Non-Unanimous Settlement revenue requirement increase.

³⁷⁸ OCA Objections to Settlement, p. 6.

³⁷⁹ OCA Objections to Settlement, p. 6; *See, e.g.*, OCA Cross Exam. Exhs. 1, 2.

³⁸⁰ OCA Objections to Settlement, p. 6.

³⁸¹ OCA Objections to Settlement, p. 6.

³⁸² OCA Objections to Settlement, p. 6; *see* OCA M.B., p. 33; OCA R.B., p. 13; OCA St. 2, p.106.

³⁸³ OCA Objections to Settlement, p. 6.

2. Cost of Service Studies in Future Rate Filings (§ 28)

PAWC agrees to submit one or more separate stormwater and wastewater cost of service studies (COSS) for each of its combined sewer systems (CSS) and is not required to submit a separate study for each combined stormwater system. OCA argues that this provision leaves the determination of the number of COSSs, completely with PAWC, with the result to be revealed when it files its next case.³⁸⁴ OCA submits that this provision will prevent the parties and the Commission from adequately reviewing the allocation of costs for the CSS systems because it will further commingle the stormwater costs that should not continue to be allocated as infiltration and inflow.³⁸⁵ OCA maintains that the stormwater costs should be addressed in a separate cost of service study to support a proposed stormwater rate.

3. Cost Allocation and Rate Design (§§ 70-71)

OCA submits that the proposed rate design, distribution of the increase, and wastewater subsidy agreed to in the Non-Unanimous Settlement is not supported by the record, is not reasonable, and is not consistent with applicable statutory requirements. Thus, even if the proposed revenue requirement is found to be supported and reasonable, OCA argues that the proposed rate design and wastewater subsidy should not be approved.

a. Water Customer Charges and Consumption Charges (§ 70a-c)

The Non-Unanimous Settlement describes the consolidation of rate zones and the customer charges that are set forth in more detail in Appendix A (water tariff), Appendix C (water proof of revenues, excluding Steelton and water proof of revenues, Steelton), and Appendix G (bill comparisons). OCA notes that the Non-Unanimous Settlement and Appendices do not provide any explanation of how the customer charges or consumption charges

³⁸⁴ OCA Objections to Settlement, p. 6.

³⁸⁵ OCA Objections to Settlement, p. 6.

were determined.³⁸⁶ The bill comparison (Appendix G) shows the average customer’s present rates and the proposed Settlement’s impact on an average customer but it does not include the proposed rates for the average customer. OCA argued that, based on the information provided in the Settlement and Appendices, it is not possible to determine the basis for these disparate changes or to determine whether the impact, from a rate design perspective, results in just and reasonable rates.³⁸⁷

In its Statement in Support, PAWC states that the allocations contained in the Non-Unanimous Settlement provide “for reasonable movement toward the system average rate of return by the various classes as measured by the Company’s cost of service study.”³⁸⁸ OCA argues that the Non-Unanimous Settlement and the Appendices provide no evidence to support that statement.³⁸⁹ Moreover, OCA argues that the Appendices to the Settlement fail to provide any schedules that show how the Non-Unanimous Settlement allocations provide for “reasonable movement” (or any movement) toward the system average rate of return.³⁹⁰

b. Wastewater Customer Charges and Consumption Charges (¶ 71a-c)

The Non-Unanimous Settlement describes the consolidation of rate zones and the customer charges that are set forth in more detail in Appendix B (wastewater tariff), Appendix C (wastewater proof of revenues), and Appendix H (bill comparisons).

The bill comparison (Appendix H) shows the average customer’s present rates and the proposed Settlement’s impact on an average customer, but, as OCA notes, it does not include the proposed rates for the average customer.³⁹¹ OCA argues that, based on the

³⁸⁶ OCA Objections to Settlement, p. 8.

³⁸⁷ OCA Objections to Settlement, p. 9.

³⁸⁸ PAWC Statement in Support, p. 31.

³⁸⁹ OCA Objections to Settlement, p. 9.

³⁹⁰ OCA Objections to Settlement, p. 9.

³⁹¹ OCA Objections to Settlement, p. 9.

information provided in the Settlement and Appendices, it is not possible to determine the basis for these disparate changes or to determine whether the impact, from a rate design perspective, results in just and reasonable rates.³⁹² 10

c. Combined Water and Wastewater Revenue Requirement (§ 71d)

The Non-Unanimous Settlement provides for \$29,296,281 (Step 1) and \$21,480,685 (Step 2) of wastewater revenues to be shifted to water customers pursuant to Section 1311(c). OCA argues that neither the Settlement nor the Statements in Support provide any explanation of how that level of subsidy meets the public interest requirements of Section 1311(c), and that the evidence in the proceeding does not support this level of subsidy.³⁹³

OCA notes that originally, PAWC proposed that its water Rate Zone 1 customers pay a subsidy of \$34,628,397 in RY1,³⁹⁴ as set forth below³⁹⁵:

Table 2: PAWC Proposed Subsidies from Rate Zone 1 Water Customers			
Rate Area	Revenue Requirement	PAWC Proposed Revenues	Subsidy
Steelton water	\$5,189,852	\$ 3,413,023	\$ (1,776,829)
Wastewater excl. Sadsbury & Exeter	33,213,134	30,785,011	(2,428,123)
Exeter WW	15,130,505	11,071,133	(4,059,372)
Sadsbury WW	1,838,386	959,853	(878,533)
Scranton WW	34,754,312	26,297,265	(8,457,047)
McKeesport WW	30,047,582	14,503,073	(15,544,509)
Kane WW	3,287,466	1,803,482	(1,483,984)
Total	\$123,461,237	\$88,832,840	\$ (34,628,397)

³⁹² OCA Objections to Settlement, p. 9.

³⁹³ OCA Objections to Settlement, p. 10.

³⁹⁴ OCA Objections to Settlement, p. 10; *see* PAWC St. No. 1, p. 30.

³⁹⁵ OCA Objections to Settlement, p. 10; *see* OCA St. 1, p. 53 (footnotes omitted).

OCA explains that the originally proposed subsidy is equivalent to 41% of PAWC's originally proposed FPFTY Rate Zone 1 increase of \$79.25 million.³⁹⁶ OCA notes that the originally proposed subsidy is equivalent to 41% of PAWC's originally proposed FPFTY Rate Zone 1 increase of \$79.25 million.³⁹⁷ Under the Non-Unanimous Settlement, the Step 1 subsidy of \$29.3 million (¶ 71.d) is equal to approximately 76% of the \$38.7 million rate increase allocated to water Rate Zone 1 customers.³⁹⁸ In 2022, the subsidy would decline to \$21.5 million (¶ 71.d), representing approximately 45% of the combined Step 1 and Step 2 rate increase allocated to water Rate Zone 1 of \$47.7 million.³⁹⁹

OCA argues that Section 1311(c) allows, but does not require, the Commission to allocate a portion of the wastewater revenue requirement to a combined water and wastewater customer base if it is in the public interest.⁴⁰⁰ OCA explains that Section 1311(c) was enacted as part of Act 11 of 2012 and has been used by PAWC in its rate cases filed in 2013 and 2017 to propose a shift of wastewater revenue requirement to water Zone 1 customers.⁴⁰¹ However, OCA notes that the issue of how the Commission should consider proposals made pursuant to Section 1311(c) has not been litigated because both of PAWC's cases were resolved by settlement.⁴⁰² OCA explains that this is the first case to include acquisitions filed under Section 1329 of the Public Utility Code and argues that using Section 1311(c) to shift most of the costs of the Section 1329 acquisitions to its statewide water customers is not reasonable.⁴⁰³

³⁹⁶ OCA Objections to Settlement, p. 10; *see* OCA St. 1, p. 53.

³⁹⁷ OCA Objections to Settlement, p. 11; *see* OCA St. 1, p. 53.

³⁹⁸ Non-Unanimous Settlement Appendix C, Sch. 3 - Step 1.

³⁹⁹ Non-Unanimous Settlement Appendix C, Sch. 3 - Step 2.

⁴⁰⁰ OCA Objections to Settlement, p. 11; *see* 66 Pa.C.S. § 1311(c).

⁴⁰¹ OCA Objections to Settlement, p. 11

⁴⁰² OCA Objections to Settlement, p. 11; *see Pa. Pub. Util. Comm'n. v. Pennsylvania-American Water Co.*, Docket No. R-2013-2355276, Order (Dec. 19, 2013) available at <https://www.puc.pa.gov/pcdocs/1262225.docx> (last visited on Nov. 20, 2020); *Pa. Pub. Util. Comm'n v. Pennsylvania-American Water Co.*, 2017 Pa. PUC LEXIS 249 (Dec. 7, 2017).

⁴⁰³ OCA Objections to Settlement, p. 11.

d. Stormwater Rates (§ 71.e)

The Company agrees to propose “potential recovery and rate methodology options for stormwater costs of combined sewer systems in its next general wastewater or combined water/wastewater base rate filing.”⁴⁰⁴ The provision explains that 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.”⁴⁰⁵ OCA argues that this provision, although calling for a consideration of methodology options, does not appear to require the Company to propose stormwater rates in its next base rate proceeding and the continued collection of stormwater costs from wastewater and water customers is not reasonable.⁴⁰⁶ OCA argues that this Non-Unanimous Settlement provision appears to perpetuate the collection of the stormwater costs through wastewater and water rates beyond the next rate case to the one beyond that at least.⁴⁰⁷ OCA maintains that permitting PAWC to continue the inequitable collection of stormwater costs from wastewater and water customers, without a clear direction that PAWC shall propose stormwater rates, along with providing the requisite notice, in its next rate filing should be rejected.⁴⁰⁸

OCA argues that the separation of costs between sanitary sewer and stormwater is key to ensuring that the costs are accurately assigned.⁴⁰⁹ OCA explains that if the costs are not assigned, it requires sanitary sewer customers and water customers (because wastewater costs are shifted to water customers) to pay costs that are not related to wastewater or water service.⁴¹⁰

⁴⁰⁴ Non-Unanimous Settlement, § 71.e.

⁴⁰⁵ Non-Unanimous Settlement, § 71.e.

⁴⁰⁶ OCA Objections to Settlement, p. 12.

⁴⁰⁷ OCA Objections to Settlement, p. 12.

⁴⁰⁸ OCA Objections to Settlement, p. 12.

⁴⁰⁹ OCA Objections to Settlement, p. 12.

⁴¹⁰ OCA Objections to Settlement, p. 12.

e. Limitation of liability provisions (§ 72)

The Non-Unanimous Settlement includes an agreement that the limitation of liability provisions proposed by PAWC are included in proposed tariffs (Appendices A - Water and B – wastewater). OCA argues this provision is not in the public interest and is not supported by the record in the proceeding.⁴¹¹

OCA opposes the proposed limitation of liability provisions as proposed by PAWC because they are overly broad and contrary to the Commission’s Policy Statement and (1) would limit liability for negligent actions for injury or damages that are not related to interruption or cessation of service, (2) would limit liability for injury or damage resulting from intentional actions (i.e. reckless or intentional behavior) and (3) contain so many conditions that it would effectively exculpates PAWC from liability.⁴¹²

G. OSBA’s Position and Objections to the Settlement

OSBA filed Objections to the Non-Unanimous Settlement on November 20, 2020. OSBA’s objections and positions on the Settlement are discussed as follows.

1. Revenue Requirement

OSBA does not support any revenue increase for PAWC at this time. It notes that at the time of its filing, the COVID-19 pandemic continues to wreak havoc in Pennsylvania, resulting in economic disruption.⁴¹³ It argues that the US unemployment rate was 8.4% as of August, 2020; the Pennsylvania unemployment rate was 13.7% as of July, 2020; the total US small business revenue was down 19.1% from January, 2020, with PA small business revenue

⁴¹¹ OCA Objections to Settlement, p. 13.

⁴¹² OCA Objections to Settlement, p. 13; *see* OCA M.B., pp. 109-11; OCA R.B., pp. 36-38; OCA St. 5, pp. 21-22; OCA St. 5SR, pp. 18-19.

⁴¹³ OSBA’s Objections to Settlement, p. 3.

down 24.0% for the same period; and the total US small businesses openings were down 19.1% from January, 2020, with PA small business openings down 14.5% for the same period.⁴¹⁴ OSBA argues that this is not a period of “business as usual” for Pennsylvania small businesses, and should not be considered “business as usual” for Pennsylvania utilities, who serve these suffering small businesses.⁸ OSBA maintains that PAWC's request for a rate increase should be denied in its entirety at this time due to the ongoing COVID-19 pandemic and its devastating impact on Pennsylvania's economy.⁴¹⁵ OSBA note that all of the Company's ratepayers have been affected, and many have been overwhelmed, by the pandemic.⁴¹⁶ OSBA argues it would be inappropriate to award PAWC a rate increase at a time when its customers are experiencing rampant joblessness and business closings.⁴¹⁷

Additionally, OSBA argues there exists no substantial evidence in the evidentiary record to support the \$70.5 million revenue requirement agreed to in the Settlement and the settling parties' request for approval of the Settlement must be denied.⁴¹⁸

2. Alternative Ratemaking Mechanisms

PAWC agreed to withdraw its request for the RCS, pension and OPEB tracker, and the second year of its MYRP.⁴¹⁹ OSBA supports PAWC withdrawing its request for these alternative ratemaking mechanisms.⁴²⁰

⁴¹⁴ OSBA’s Objections to Settlement, p. 3.

⁴¹⁵ OSBA’s Objections to Settlement, p. 3.

⁴¹⁶ OSBA’s Objections to Settlement, p. 4.

⁴¹⁷ OSBA’s Objections to Settlement, p. 4.

⁴¹⁸ OSBA’s Objections to Settlement, p. 4.

⁴¹⁹ Settlement, p. 11.

⁴²⁰ OSBA’s Objections to Settlement, p. 4.

3. Customer Assistance Programs and COVID-19

Paragraphs 34 through 69 outline PAWC's commitments regarding various customer assistance programs.⁴²¹ OSBA takes no issue with the commitments made in these paragraphs.⁴²²

4. Cost Allocation and Rate Design

Paragraphs 70 and 71 outline the Settling Parties agreed-upon water rate structure, rate design and distribution of the increase in revenues. OSBA takes no issue with the commitments made in these paragraphs.⁴²³

H. CAUSE-PA's Position and Objections to the Settlement

CAUSE-PA filed a Main Brief on November 10, 2020, and objections to the Settlement on November 20, 2020.

CAUSE-PA objects to the Joint Petition, arguing that it will impose an unreasonable, unjust, and categorically unaffordable rate increase on top of already unaffordable rates.⁴²⁴ CAUSE-PA explains that it opposes any rate increase at the present time, given the continued health and economic devastation caused by the COVID-19 pandemic.⁴²⁵ CAUSE-PA argues that economic recovery is likely to be slow and long-term, with many projecting that the economic outlook will get even worse before it begins to look better.⁴²⁶ CAUSE-PA maintains

⁴²¹ Settlement, pp. 11-17.

⁴²² OSBA's Objections to Settlement, p. 5.

⁴²³ OSBA's Objections to Settlement, p. 5.

⁴²⁴ CAUSE-PA Objections to Settlement, p. 2.

⁴²⁵ CAUSE-PA Objections to Settlement, p. 2-3.

⁴²⁶ CAUSE-PA Objections to Settlement, p. 3.

that allowing a rate increase that would be designed to procure additional annual water and wastewater revenues of \$70.5 million – even in a staged manner as proposed in the Settlement - would substantially increase the cost of essential and life-sustaining water and wastewater services in the midst of a public health and economic crisis, the full range and impact of which is yet to be fully known or understood.⁴²⁷

CAUSE-PA argues that the COVID-19 pandemic has caused unprecedented levels of economic devastation and has disproportionately affected low income households.⁴²⁸ It argues that it is unclear when and if Pennsylvania’s households will begin to financially recover.⁴²⁹ Given the continued and potentially long-term impact of COVID-19 on people’s lives and livelihoods, and need for consumers to maintain water and wastewater services to help stop the spread of the pandemic, CAUSE-PA maintains that it is inappropriate to raise rates for water and wastewater services at this time.⁴³⁰

CAUSE-PA argues that the rate increase proposed in the Joint Petition threatens to price low-income consumers out of the market, which is neither just nor reasonable; thus, the Settlement should not be approved.⁴³¹ CAUSE-PA argues that for low-income customers, the rate increase proposed in the Settlement will have an immediate and profound impact on their ability to afford and stay connected to service.⁴³²

CAUSE-PA notes that low-income consumers have been particularly hard hit by the economic repercussions of COVID-19, and low wage and hourly workers have experienced the highest levels of job losses and reductions of workforce.⁴³³

⁴²⁷ CAUSE-PA Objections to Settlement, p. 3.

⁴²⁸ CAUSE-PA Objections to Settlement, p. 3; *see* CAUSE-PA St. 1, p. 7: 9-17; CAUSE-PA MB, p. 13.

⁴²⁹ CAUSE-PA Objections to Settlement, p.3; CAUSE-PA St. 1, pp. 44: 22-23; 45: 1-2.

⁴³⁰ CAUSE-PA Objections to Settlement, p.3.

⁴³¹ CAUSE-PA Objections to Settlement, p.4.

⁴³² CAUSE-PA Objections to Settlement, p.4.

⁴³³ CAUSE-PA Objections to Settlement, p.5; *see* CAUSE-PA St. 1, p. 7: 15-17.

CAUSE-PA argues that even during relatively good economic times, low income customers have profoundly struggled to afford and maintain services at current rates.⁴³⁴ CAUSE-PA argues that at existing rates, low income consumers already face steep rates for essential water and wastewater service – even with assistance through PAWC’s H2O program.⁴³⁵ As CAUSE-PA explains, low income consumers – especially those with the lowest level of income and the highest usage rates – already often pay upwards of 10% or more of their gross annual income for water and wastewater service at existing rates.⁴³⁶

CAUSE-PA avers that PAWC’s H2O program does little to decrease this water and wastewater burden, with many still facing a combined water and wastewater burden in excess of 10% or more of gross household income.⁴³⁷

CAUSE-PA argues that increasing rates will further exacerbate this affordability crisis, and is likely to cause increased terminations to economically vulnerable consumers or, alternatively, will cause these customers to go without other critical necessities in order to keep up with PAWC’s inflated cost of services.⁴³⁸ Increasing rates without addressing deep unaffordability issues will exacerbate these disproportionately high low income termination rates – especially given the increased number of consumers struggling to make ends meet as a result of the global pandemic. This effect would be neither just nor reasonable and would place low income household and their surrounding communities at substantial risk of harm.⁴³⁹

CAUSE-PA argues that the need to access safe and affordable water and wastewater services has been amplified as a result of COVID-19.⁴⁴⁰ Without running water,

⁴³⁴ CAUSE-PA Objections to Settlement, p.6.

⁴³⁵ CAUSE-PA Objections to Settlement, p.6.

⁴³⁶ CAUSE-PA Objections to Settlement, p.7; *see* CAUSE-PA St. 1, pp. 27-28, T.4 & T.5.

⁴³⁷ CAUSE-PA Objections to Settlement, p. 9.

⁴³⁸ CAUSE-PA Objections to Settlement, p. 11; CAUSE-PA St 1, p.31: 4-16.

⁴³⁹ CAUSE-PA Objections to Settlement, p. 11.

⁴⁴⁰ CAUSE-PA Objections to Settlement, p. 12; *see* CAUSE-PA St. 1, p. 24: 9-10.

CAUSE-PA argues that people cannot follow the most consistent guidance to guard against COVID-19 – to wash your hands and sanitize surfaces.⁴⁴¹ Basic daily tasks of livings, such as cooking, cleaning, flushing the toilet, and brushing teeth, become impossible if water and wastewater services are terminated.⁴⁴² Lack of consistent water and wastewater services poses a significant threat to health and safety and is especially dangerous to vulnerable consumers, including seniors and individuals living with underlying health issues who are more susceptible to health complications as a result of loss of service.⁴⁴³

CAUSE-PA recognizes and appreciates that the Joint Petition contains some additional protections and customer assistance. It argues, however, these proposals are wholly inadequate to mitigate the substantial rate increase proposed in the Settlement – on top of the economic devastation associated with the COVID-19 pandemic.

Given the proposed rate increase in the Joint Petition, CAUSE-PA argues that the proposed Settlement is inadequate to ensure that consumers can access and maintain water and wastewater service, which is absolutely critical to the health and safety of individuals and the broader community.⁴⁴⁴ CAUSE-PA aver that in addition to allowing rates to increase dramatically over the next three years, the Settlement also fails to set forth meaningful improvements to PAWC's low income programming, as it does not provide for changes to the structure of PAWC's H2O bill discount to remediate unaffordability within the program or disparities in the distribution of benefits – nor does it provide for any mechanism for H2O participants to address arrears accrued prior to entry into the discount program.⁴⁴⁵ CAUSE-PA maintains that PAWC's economically vulnerable customers were already struggling to maintain water and wastewater to their home under existing rates, and prior to profound economic impact of the pandemic, and in

⁴⁴¹ CAUSE-PA Objections to Settlement, p. 12; CAUSE-PA St. 1, p. 24: 9-11.

⁴⁴² CAUSE-PA Objections to Settlement, p. 12; CAUSE-PA St. 1, p. 25: 1-5.

⁴⁴³ *Id.*

⁴⁴⁴ CAUSE-PA Objections to Settlement, p. 14.

⁴⁴⁵ CAUSE-PA Objections to Settlement, p. 14.

recent months, that struggle has increased exponentially, as low income customers have been particularly hard-hit by the pandemic.⁴⁴⁶

I. CEO's Position and Objections to the Settlement

CEO filed Main Brief on November 10, 2020, and CEO did not file a Reply Brief or Additional Objections to the Settlement. CEO opposes the non-unanimous settlement in that it provides for an increase in rates. CEO explains that it has intervened in numerous rate cases, including prior rate cases filed by this Company, but has never taken a position in any prior rate case as to whether a requested rate increase should be granted.⁴⁴⁷ In this case, however, CEO is contending that the Company's requests for rate increases should be denied.⁴⁴⁸

CEO explains that it takes this position because of the COVID-19 pandemic and the impact it has had. It argues that the impact is continuing, with all indications that the virus and its impact will continue for some time.⁴⁴⁹ CEO notes that a large part of the impact has been economic and low-income individuals have been hit particularly hard.⁴⁵⁰ CEO maintains that the pandemic is an unusual event, hopefully a once in a lifetime event, and, as such, should compel the Commission to take the unusual step of denying these requests for rate increases.⁴⁵¹

Should the rate increases be granted, CEO posits that the Company should be required to provide measures that would allow its low-income ratepayers the ability to lessen their utility costs through conservation. In particular, CEO recommends that the Company's request to increase its fixed monthly residential customer charge should be denied because such an

⁴⁴⁶ CAUSE-PA Objections to Settlement, p. 14.

⁴⁴⁷ CEO Main Brief, p. 3.

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.*

⁴⁵⁰ *Id.*

⁴⁵¹ *Id.*

increase in a fixed charge would lessen a low-income ratepayer's ability to conserve energy and therefore reduce their bill.⁴⁵² Additionally, CEO argues there should be increases in discounts available for low-income customers and increased funding in the Company's hardship fund.⁴⁵³ CEO argues that, if rate increases are granted, these additional measures would allow a low-income customer to conserve energy and lessen their bill and would be necessary to make any rate increase 'just and reasonable.'

IX. RECOMMENDATION

The Commission encourages parties in contested on-the-record proceedings to settle cases. *See* 52 Pa.Code § 5.231. Settlements eliminate the time, investment of lawyering skills, evidence gathering, witness preparation, witness examination and expense of litigating a matter to its resolution, which may entail review of the Commission's decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such continuing litigation necessarily entails.

By definition, a "settlement" reflects a compromise of the parties' positions, which arguably fosters and promotes the public interest. When parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest. *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa. PUC 767, 771 (1991).

A unanimous settlement was not achieved in this proceeding; however, as the presiding officer, I am compelled to note that respective counsel for the Company and the government and private entities represented their clients vigorously. Achieving a full settlement with the support of all active Parties would have been a daunting accomplishment during a nationwide pandemic. Echoing the PIH witnesses' repeated reference to the economic hardships

⁴⁵² *Id.*

⁴⁵³ *Id.*

resulting from the COVID-19 pandemic, the non-Settling Parties' leading or primary objection to the Settlement is the Company's proposed \$70.5 million revenue requirement.

OCA claims the evidence fails to establish it is necessary to increase rates for PAWC to earn a fair rate of return. CAUSE-PA objects to any rate increase and contends the COVID-19 pandemic has caused unprecedented levels of economic devastation and has disproportionately affected low-income households. CEO suggests the COVID-19 pandemic is an unusual event harshly and economically impacting low-income individuals, thereby warranting denial of the requested rate increase.

The non-Settling Parties' overall objections to the Settlement's proposed revenue requirement is succinctly explained by OSBA as follows:

[T]he OSBA does not support any revenue increase for PAWC at this time. On March 6, 2020, Governor Tom Wolf issued a *Proclamation of Disaster Emergency ("Executive Order")* attesting to the existence of a disaster emergency in Pennsylvania due to COVID-19. At the time of the filing of these comments, the COVID-19 pandemic continues to wreak havoc in Pennsylvania, resulting in economic disruption. As noted in Mr. Kalcic's direct testimony, the US unemployment rate was 8.4% as of August 2020; [footnote omitted] the Pennsylvania unemployment rate was 13.7% as of July, 2020; [footnote omitted] the total US small business revenue was down 19.1% from January, 2020, with PA small business revenue down 24.0% for the same period; [footnote omitted] and the total US small businesses openings were down 19.1% from January, 2020, with PA small business openings down 14.5% for the same period.' This is not a period of "business as usual" for Pennsylvania small businesses and should not be considered "business as usual" for Pennsylvania utilities, who serve these suffering small businesses. [footnote omitted] PAWC's request for a rate increase should be denied in its entirety at this time due to the ongoing COVID-19 pandemic and its devastating impact on Pennsylvania's economy. All of the Company's ratepayers have been affected, and many have been overwhelmed, by the pandemic. It would be inappropriate to award PAWC a rate increase at a time when its customers are experiencing rampant joblessness and business closings.

Furthermore, there exists no substantial evidence in the evidentiary record to support the \$70.5 million revenue requirement agreed to in the *Non-Unanimous Settlement*. "A litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible." *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). In this case, the settling parties' request for approval of the *Non-Unanimous Settlement* must be denied.^[454]

PAWC asserts the revenue requirement provisions provide for Settlement Rates that are within the "constitutional range of reasonableness" and are consistent with the legal standards articulated in the *Bluefield* and *Hope* decisions.⁴⁵⁵ According to PAWC, the Settlement Rates reflect a careful balance of the interests of customers with those of the Company to promote the public interest. As such, PAWC claims, the Settlement Rates protect customers from paying excessive rates while allowing the Company and its investors a reasonable opportunity to earn a fair return on their investment in property devoted to public service and to obtain additional capital needed to meet the Company's service obligations.

In response to the non-Settling Parties opposition to the Settlement PAWC submitted the following:

The Company is keenly aware that this case – its first base rate case filed since April 2017 – has taken place during the COVID-19 emergency. As I&E explained in its Statement of Support for the Settlement, "[t]he revenue increase agreed to by I&E and the Company recognizes that while PAWC may be entitled to a rate increase, the COVID-19 pandemic is still occurring and, thus, steps must be put in place to ease the burden on ratepayers." The Settlement therefore includes key terms that provide both a necessary rate increase and expanded assistance to customers, including:

- A rate increase of \$70 million that is roughly half of that requested by the Company;
- Implementing that rate increase in three installments over two

⁴⁵⁴ Comments of OSBA to the *NON-UNANIMOUS SETTLEMENT*, pp. 3-4.

⁴⁵⁵ Statement of Pennsylvania-American Water Company in Support of the Joint Petition for Non-Unanimous Settlement of Rate Investigation, p. 37.

years with substantial (\$10.5 million) bill credits in those years, resulting in an annualized net increase in 2021 of only \$40 million will not commence until March 2021;

- Increased water and wastewater bill discounts for low-income customers;
- Increased the Company's contribution to the H2O Help to Others Hardship Fund;
- Expanded outreach efforts to communities in need to increase awareness of and enrollment in the Company's low-income programs,

specifically targeting those communities impacted by the COVID-19 emergency;

- A proposed arrearage management plan, to be developed with stakeholders and submitted to the Commission within six months after a final order in this proceeding; and
- A variety of additional program changes to assist low-income customers during the pandemic, including income self-certification for PAWC's H2O Help to Others Hardship Fund, a waiver of reconnection fees, and a waiver of a good faith payment requirement for individuals participating in PAWC's hardship fund. [footnote omitted]^[456]

Although a unanimous settlement was not achieved in this proceeding, the Settlement proposed by the Settling Parties, in general, represents a “black box” approach to all individual revenue requirement issues. Black box settlements avoid the need for protracted disputes over the merits of individual revenue adjustments and avoid the need for a diverse group of stakeholders to attempt to reach a consensus on a variety of financial numbers. It is unlikely that the Settling Parties would have been able to reach a consensus on each of the disputed accounting and ratemaking issues raised in this matter, as policy and legal positions can differ widely. As such, the Settling Parties have not specified a dollar amount for each issue or

⁴⁵⁶ See Reply of Pennsylvania-American Water Company to Comments on the Joint Petition for Non-Unanimous Settlement, pp 1-2.

adjustment raised in this case. Attempting to reach an agreement regarding each adjustment in this proceeding would likely have prevented any settlement from being reached.

While I am mindful of the economic hardship gripping many ratepayers, the Commonwealth, and the nation at large due to the ongoing COVID-19 pandemic, in deciding whether to recommend approval of the Settlement, I am bound by the Commission's policy that encourages settlement and whether the Settlement is in the public interest. *Pa. Pub. Util. Comm'n v. C. S. Water & Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

Weighing the evidence and duly considering the competing arguments of the Settling and Non-Settling Parties, I find the Settlement is in the public interest for the following reasons, as set forth in Finding of Fact No. 75:

- a. The Settlement provides for an increase in annual operating revenues of \$70.5 million in two installments, which will be offset by an annualized credit of \$10.5 million in each of years 2021 and 2022, in lieu of the \$136.8 million increase over the two years of the MYRP PAWC originally requested.
- b. The Settlement includes robust commitments from PAWC to protect its customers amid the COVID-19 public health and economic crisis.
- c. The Settlement Rates will allocate the agreed upon combined water and wastewater revenue requirement to each rate zone and customer class in a manner that is reasonable in light of the rate structure/cost of service positions of the Joint Petitioners and implement Section 1311(c) of the Public Utility Code in a manner that is agreeable to the Joint Petitioners.
- d. The Joint Petitioners arrived at the Settlement terms after conducting extensive discovery, submitting testimony and engaging in in-depth discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231, 69.391 and 69.401), and is supported by a substantial record.

Since I find that the Settlement in the public interest, I also find that PAWC met its burden of proving that the proposed rates for the revenue increase are just and reasonable, under Section 1301 of Code, 66 Pa.C.S. § 1301. Accordingly, in the ordering paragraphs below, I will recommend that the Joint Settlement submitted in this proceeding be approved by the Commission.

X. DISPOSITION OF NON-SETTLING PARTIES' COMPLAINTS

Active and non-Settling Parties, OCA and OSBA, filed Complaints in this proceeding. In addition to their Complaints, more than 50 inactive Parties filed ratepayer Complaint. OCA's and OSBA's objections to the Settlement have been addressed above. The inactive Parties received due notice of the evidentiary hearings conducted in this matter. However, they did not participate in the evidentiary hearings. Their lack of participation in the evidentiary hearings permits dismissal of their Complaints under the Commission's regulations at 52 Pa.Code § 5.245. Accordingly, the Complaints of the inactive Parties along with the Complaints filed by OCA and OSBA will be dismissed in the ordering paragraphs below.

XI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding. 66 Pa.C.S. §§ 701, 1308(d).

2. Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the Commission. 66 Pa.C.S. § 1301.

3. 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 raise the money necessary for the proper discharge of public duties. *Bluefield Waterworks & Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679 (1923).

4. To determine whether a settlement should be approved, the Commission must decide whether the settlement promotes the public interest. *Pa. Pub. Util. Comm'n v. C. S. Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa. PUC 1 (1985).

5. The settlement rates, terms and conditions contained in the Joint Petition for Non-Unanimous Settlement of Rate Investigation at Docket Nos. R-2020-3019369 (Water) and R-2020-3019371 (Wastewater) submitted by the Pennsylvania-American Water Company, the Bureau of Investigation and Enforcement, and Pennsylvania American Water Large Users Group and supported by AK Steel Corporation are just, reasonable and in the public interest.

6. Pennsylvania-American Water Company has met its burden of proof to show that the rates, rules, and regulations in the settlement are lawful, just and reasonable. 66 Pa.C.S. § 315(a).

7. The Commission is required to provide due process to the parties that participated by formal complaint or intervention. When parties are afforded notice and an opportunity to be heard, the Commission requirement to provide due process is satisfied. *Schneider v. Pa. Pub. Util. Comm'n*, 83 Pa.Cmwlth. 306, 479 A.2d 10 (1984).

XII. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Non-Unanimous Settlement of Rate Investigation of the Pennsylvania-American Water Company, the Commission's Bureau of Investigation and Enforcement and the Pennsylvania-American Large Users Group, which is supported by AK Steel Corporation and filed at Docket No. R-2020-3019369 and Docket

No. R-2020-3019371, including all terms and conditions stated therein, be approved as set forth in the Recommendation Section of this Recommended Decision.

2. That the Pennsylvania-American Water Company is authorized to file tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein and Appendices and attached to the Joint Petition for Non-Unanimous Settlement, to produce an 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 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.

3. That Pennsylvania-American Water Company tariffs, tariff supplements and/or tariff revisions may be filed to become effective on at least one day's notice after entry of the Commission's Order approving the Settlement.

4. That Pennsylvania-American Water Company and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania shall comply with the terms of the Stipulations that they submitted in this proceeding as though each term therein were the subject of an individual ordering paragraph.

5. That Pennsylvania-American Water Company and the Commission on Economic Opportunity shall comply with the terms of the Stipulations that submitted in this proceeding as though each term therein were the subject of an individual ordering paragraph.

6. That the formal complaints of the Pennsylvania-American Water Large Users Group at Docket No. C-2020-3020238 (Water) and No. C-2020-3020240 (Wastewater) be deemed satisfied and marked closed.

7. That the following formal complaints at the respective docket numbers be dismissed and marked closed by the Commission's Secretary's Bureau:

<u>Complainant(s)</u>	<u>Docket Number (Water)</u>
Office of Consumer Advocate	C-2020-3019751
Office of Small Business Advocate	C-2020-3019767
Jessica and Jeffrey LaBarge	C-2020-3019627
Mr. and Mrs. Gerald S. Lepre, Jr.	C-2020-3019646
Victoria Lozinak	C-2020-3019778
Charles and Jennifer Spryn	C-2020-3019905
Cherise H. Sympson	C-2020-3020209
David Dollard	C-2020-3020219
Jan K. Vroman	C-2020-3020220
Anna-Maria Rucci	C-2020-3020245
West Norriton Township	C-2020-3020401
Andrew Wu	C-2020-3020497
Timothy Fuhrmann	C-2020-3020516
Terrence Reilley and Dorothy Reilley	C-2020-3020524
Ahmed Rashed	C-2020-3020546
Dennis Gore	C-2020-3020547
Bryan A. Stephen	C-2020-3020699
Sam Galdieri	C-2020-3020841
Robert D. and Maryann Reardon	C-2020-3020842
Maria Mocerì	C-2020-3020843
Dennis Sweigart	C-2020-3020845
Anne Leithiser	C-2020-3020846
Sharon Higinbotham	C-2020-3020851
Diane Vottero	C-2020-3020852
Linda C. Denby	C-2020-3020887
Michael Palin	C-2020-3020888
Ron Bair, Jr.	C-2020-3020889
Michael Andrews	C-2020-3020892
Thomas Blakely	C-2020-3020893
Pamela Blakely	C-2020-3020894
Shannon Haig	C-2020-3020933
Randy and Sandra McKinley	C-2020-3020934
Timothy Peter Walsh	C-2020-3020935
Andrew D. Sproat	C-2020-3020936
John Norton	C-2020-3020937
Christopher Visco	C-2020-3020938
Tom E. Will	C-2020-3020939
East Norriton Township	C-2020-3021060
Robert Redinger, Jr.	C-2020-3021167
Leroy James Watters, III	C-2020-3021380
Gregory and Catherine Gannon	C-2020-3021381
Paul Trizonis	C-2020-3022050

<u>Complainant(s)</u>	<u>Docket Number (Wastewater)</u>
Office of Consumer Advocate	C-2020-3019754
Office of Small Business Advocate	C-2020-3019772
Jessica and Jeffrey LaBarge	C-2020-3019627
Mr. and Mrs. Gerald S. Lepre, Jr.	C-2020-3019646
William H. Rissmiller	C-2020-3020198
David Dollard	C-2020-3020219
Terrence Reilley and Dorothy Reilley	C-2020-3020524
Dennis Gore	C-2020-3020547
Hal H. Harris	C-2020-3020563
Svetlana Perminova and Viktor Ushenko	C-2020-3020829
Sam Galdieri	C-2020-3020841
Timothy Peter Walsh	C-2020-3020935
Christopher Visco	C-2020-3020938
Gregory and Catherine Gannon	C-2020-3021381

8. That upon acceptance and approval by the Commission of the tariffs, tariff supplements or tariff revisions filed by Pennsylvania-American Water Company consistent with this Order, this proceeding at Docket No. R-2020-3019369 (Water) and Docket No. R-2020-3019371 (Wastewater) shall be marked closed.

Date: December 22, 2020

/s/
Conrad A. Johnson
Administrative Law Judge

APPENDIX A – HEARING EXHIBITS

Table of Exhibits

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4.	Office of Small Business Advocate (OSBA) Statements and Exhibits.....	143
5.	Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (Cause-Pa) Statements and Exhibits.....	144
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1. Pennsylvania-American Water Company Statements and Exhibits

PAWC Statement No. 1

- PAWC Exhibit 3-A
- PAWC Exhibit 3-B
- PAWC Exhibit 3-C

- Schedule RPN-1
- Schedule RPN-2
- Schedule RPN-3

- Schedule RPN-4
- Schedule RPN-5

PAWC Statement No. 1-R

- PAWC Exhibit 3-A Revised

Direct Testimony of Rod P. Nevirauskas

Revenue Deficiency and Adjustments

Operating Expense Data

Plant Additions and Retirements, Rate Base
Claims, TCJA Stub Period and Taxes Other
Than Income Supporting Data

Summary of Rate Increase Request

Overview of Revenue Requirements and
Revenues at Present and Proposed Rates

Comparison of Actual vs. Claimed Operating
Expense for the Twelve Months Ending
December 31, 2018 and Actual vs. Claimed Rate
Base Additions for the Twenty-Four Months
Ending December 31, 2018

Section 500 Sheet of PAWC's Annual Report
(20172019)

Port Vue Borough Plant In Service Costs

Rebuttal Testimony of Rod P. Nevirauskas

Revised Revenue Deficiency and Adjustments

PAWC Statement No. 2

PAWC Statement No. 2-S

PAWC Statement No. 2-R

- PAWC Exhibit WAC-1R
- PAWC Exhibit WAC-2R

PAWC Statement No. 3

PAWC Statement No. 3-R

- PAWC Exhibit BWA-1R

PAWC Statement No. 4

- Confidential Schedule AEE-1

PAWC Statement No. 4-R

- PAWC Exhibit AEE-1R
- PAWC Exhibit AEE-2R
- PAWC Exhibit AEE-3R

PAWC Statement No. 5

**PAWC Statement No. 5-R
Chard**

- PAWC Exhibit CEC-1R
- PAWC Exhibit CEC-2R
- PAWC Exhibits CEC-3R

PAWC Statement No. 6

- Schedule SDG-1

PAWC Statement No. 6-R

**Direct Testimony of William Andrew
Clarkson**

**Supplemental Direct Testimony of William
Andrew Clarkson**

**Rebuttal Testimony of William Andrew
Clarkson
(Public & Confidential Versions)**

PAWC Response to Interrogatory OCA-11-014

PAWC Alert Notification Bill Insert

Direct Testimony of Bruce W. Aiton

**Rebuttal Testimony of Bruce W. Aiton
(Public and Confidential Versions)**

Main Extension Evaluation Process –
Bona Fide Service Applicants – Tariff
Rule 27

Direct Testimony of Ashley E. Everett

Sale of Hershey Office

Rebuttal Testimony of Ashley E. Everett

Revenue Adjustment – Changes Affecting
Specific Customers (Troegs Brewing
Company)

Changes in Power and Chemical Costs
Associated with OCA Adjustment to
Declining Usage

Regionalization and Consolidation
Surcharge – Proposed Water and
Wastewater Tariff

Direct Testimony of Dr. Christina E. Chard

Rebuttal Testimony of Dr. Christina E.

Year End Rate Base for 2021

General Assessments – 2021 Invoices

Property Tax Updates – Exeter Sanitary
Sewer System & Steelton Water Operations

Direct Testimony of Stacey D. Gress

Allocation Factors for Common Costs

Rebuttal Testimony of Stacey D. Gress

<ul style="list-style-type: none"> • PAWC Exhibit SDG-1R 	PAWC 401K, Defined Contribution Plan, and Employee Stock Purchase Plan Supporting Data
<ul style="list-style-type: none"> • PAWC Exhibit SDG-2R 	Revised PAWC Claim for Service Company Costs
<ul style="list-style-type: none"> • PAWC Exhibit SDG-3R 	PAWC Water Operations Excluding Steelton – Inflation Calculation 2020, 2021 and 2022
<ul style="list-style-type: none"> • PAWC Exhibit SDG-4R 	Rate Case Expense
PAWC Statement No. 7	Direct Testimony of Dominic J. DeGrazia
PAWC Statement No. 8	Direct Testimony of Bernard J. Grundusky, Jr.
PAWC Statement No. 8-R	Rebuttal Testimony of Bernard J. Grundusky, Jr.
<ul style="list-style-type: none"> • PAWC Exhibit BJB-1R 	Selection of PAWC Direct Testimony in McKeesport, Sadsbury, Exeter, Steelton and Kane Acquisition Proceedings
<ul style="list-style-type: none"> • PAWC Exhibit BJB-2R 	OCA Response to Interrogatory PAWC-OCA-IV-3
PAWC Statement No. 9	Direct Testimony of Gregory P. Roach
<ul style="list-style-type: none"> • PAWC Exhibit GPR-1 	American Water Residential Water Usage Trends (2010-2019)
<ul style="list-style-type: none"> • PAWC Exhibit GPR-2 	U.S. Water Fixture Specifications
<ul style="list-style-type: none"> • PAWC Exhibit GPR-3 	Reasonableness of PAWC Residential Consumption Decline
<ul style="list-style-type: none"> • PAWC Exhibit GPR-4 	State of Pennsylvania & Allegheny County - Housing Stock Vintage
<ul style="list-style-type: none"> • PAWC Exhibit GPR-5 	Effect of Tornado Rebuild on Water Usage
<ul style="list-style-type: none"> • PAWC Exhibit GPR-6 	Authorized and Actual Revenue & Water Sales (2010 – 2019)
PAWC Statement No. 9-R	Gregory P. Roach
<ul style="list-style-type: none"> • PAWC Exhibit GPR-1R 	PAWC Monthly Class Level Usage Per Customer Day (January-August 2020)
PAWC Statement No. 10	Direct Testimony of John R. Wilde
<ul style="list-style-type: none"> • PAWC Exhibit JRW-1 	Amortization of Excess Accumulated Deferred Income Tax
PAWC Statement No. 10-R	Rebuttal Testimony of John R. Wilde
<ul style="list-style-type: none"> • PAWC Exhibit JRW-1R 	Revised Amortization of Excess Accumulated Deferred Income Tax Balances

- PAWC Exhibit JRW-2R
- PAWC Exhibit JRW-3R

PAWC Statement No. 11

- PAWC Exhibit 11-A
- PAWC Exhibit 11-B
- PAWC Exhibit 11-C
- PAWC Exhibit 11-D
- PAWC Exhibit 11-E
- PAWC Exhibit 11-F
- PAWC Exhibit 11-G
- PAWC Exhibit 11-H
- PAWC Exhibit 11-I
- PAWC Exhibit 11-J
- PAWC Exhibit 11-K
- PAWC Exhibit 11-L
- PAWC Exhibit 11-M
- PAWC Exhibit 11-N

OCA's Proposed Amortization of Excess Accumulated Deferred Income Tax (Updated With PAWC Revisions)

Comparison of Amortization Periods Over the Remaining Life of the Underlying Utility Plant in Service

Direct Testimony of John J. Spanos

Depreciation Study – Water Operations Excluding Steelton as of December 31, 2019

Depreciation Study – Water Operations Excluding Steelton as of December 31, 2020

Depreciation Study – Water Operations Excluding Steelton as of December 31, 2021

Depreciation Study – Water Operations Excluding Steelton as of December 31, 2022

Depreciation Study – Water Steelton Operations as of December 31, 2019

Depreciation Study – Water Steelton Operations as of December 31, 2020

Depreciation Study – Water Steelton Operations as of December 31, 2021

Depreciation Study – Water Steelton Operations as of December 31, 2022

Depreciation Study – Wastewater SSS Operations Excluding Sadsbury and Exeter as of December 31, 2019

Depreciation Study – Wastewater SSS Operations Excluding Sadsbury and Exeter as of December 31, 2020

Depreciation Study – Wastewater SSS Operations Excluding Sadsbury and Exeter as of December 31, 2021

Depreciation Study – Wastewater SSS Operations Excluding Sadsbury and Exeter as of December 31, 2022

Depreciation Study – Wastewater SSS Sadsbury Operations as of December 31, 2019

Depreciation Study – Wastewater SSS Sadsbury

• PAWC Exhibit 11-O	Operations as of December 31, 2020 Depreciation Study – Wastewater SSS Sadsbury Operations as of December 31, 2021
• PAWC Exhibit 11-P	Depreciation Study – Wastewater SSS Sadsbury Operations as of December 31, 2022
• PAWC Exhibit 11-Q	Depreciation Study – Wastewater SSS Exeter Operations as of December 31, 2019
• PAWC Exhibit 11-R	Depreciation Study – Wastewater SSS Exeter Operations as of December 31, 2020
• PAWC Exhibit 11-S	Depreciation Study – Wastewater SSS Exeter Operations as of December 31, 2021
• PAWC Exhibit 11-T	Depreciation Study – Wastewater SSS Exeter Operations as of December 31, 2022
• PAWC Exhibit 11-U	Depreciation Study – Wastewater CSS Scranton Operations as of December 31, 2019
• PAWC Exhibit 11-V	Depreciation Study – Wastewater CSS Scranton Operations as of December 31, 2020
• PAWC Exhibit 11-W	Depreciation Study – Wastewater CSS Scranton Operations as of December 31, 2021
• PAWC Exhibit 11-X	Depreciation Study – Wastewater CSS Scranton Operations as of December 31, 2022
• PAWC Exhibit 11-Y	Depreciation Study – Wastewater CSS McKeesport Operations as of December 31, 2019
• PAWC Exhibit 11-Z	Depreciation Study – Wastewater CSS McKeesport Operations as of December 31, 2020
• PAWC Exhibit 11-AA	Depreciation Study – Wastewater CSS McKeesport Operations as of December 31, 2021
• PAWC Exhibit 11-AB	Depreciation Study – Wastewater CSS McKeesport Operations as of December 31, 2022
• PAWC Exhibit 11-AC	Depreciation Study – Wastewater CSS Kane Operations as of December 31, 2020
• PAWC Exhibit 11-AD	Depreciation Study – Wastewater CSS Kane Operations as of December 31, 2021
• PAWC Exhibit 11-AE	Depreciation Study – Wastewater CSS Kane

PAWC Statement No. 12

- PAWC Exhibit 12-A
- PAWC Exhibit 12-B
- PAWC Exhibit 12-C
- PAWC Exhibit 12-D
- PAWC Exhibit 12-E
- PAWC Exhibit 12-F
- PAWC Exhibit 12-G
- PAWC Exhibit 12-H
- PAWC Exhibit 12-I
- PAWC Exhibit 12-J

Operations as of December 31,
2022

**Direct Testimony of Constance E.
Heppenstall**

Cost of Service Study – Water
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Water Operations as of
December 31, 2021 and
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and Confidential Pages)

Cost of Service Study – Water
Operations Steelton Water Operations
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Cost of Service Study – Wastewater
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Exeter Operations as of December
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Cost of Service Study – Exeter
Wastewater SSS Operations as of
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Cost of Service Study – Sadsbury
Wastewater SSS Operations as of
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Cost of Service Study – McKeesport
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31, 2022

Cost of Service Study – Kane
Wastewater CSS Operations as of
December 31, 2021 and December 31,
2022

Bill Analysis for Water
Operations Excluding Steelton
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Pages)

Bill Analysis for Steelton Water Operations

<ul style="list-style-type: none"> • PAWC Exhibit 12-K 	Bill Analysis for Wastewater SSS Operations Excluding Sadsbury and Exeter
<ul style="list-style-type: none"> • PAWC Exhibit 12-L 	Bill Analysis for Sadsbury Wastewater SSS Operations
<ul style="list-style-type: none"> • PAWC Exhibit 12-M 	Bill Analysis for Exeter Wastewater SSS Operations
<ul style="list-style-type: none"> • PAWC Exhibit 12-N 	Bill Analysis for Scranton Wastewater CSS Operations
<ul style="list-style-type: none"> • PAWC Exhibit 12-O 	Bill Analysis for McKeesport Wastewater CSS Operations
<ul style="list-style-type: none"> • PAWC Exhibit 12-P 	Bill Analysis for Kane Wastewater CSS Operations
PAWC Statement No. 12-R	Rebuttal Testimony of Constance E. Heppenstall
<ul style="list-style-type: none"> • PAWC Exhibit CEH-1R 	Rebuttal Water Operations Excluding Steelton Cost of Service Study (Exhibit 12-A Revised)
<ul style="list-style-type: none"> • PAWC Exhibit CEH-2R 	Rebuttal Water Operations Excluding Steelton Application of Present and Proposed Rates to Consumption Analysis (Exhibit 12-I Revised) (Redacted and Confidential Pages)
<ul style="list-style-type: none"> • PAWC Exhibit CEH-3R 	American Water Works Association Manual - Principles of Water Rates, Fees and Charges – Sixth Edition (Excerpt)
<ul style="list-style-type: none"> • PAWC Exhibit CEH-4R 	Bill Frequency Report for Non-Residential Customers
<ul style="list-style-type: none"> • PAWC Exhibits CEH-5R 	Summary of Opposing Parties' Wastewater Rate Recommendations
PAWC Statement No. 13	Direct Testimony of Ann E. Bulkley
<ul style="list-style-type: none"> • PAWC Exhibit 13-A 	Cost of Capital Schedules
PAWC Statement No. 13-R	Rebuttal Testimony of Ann E. Bulkley
<ul style="list-style-type: none"> • PAWC Exhibit 13-R 	Summary of Return on Equity Analyses Results
PAWC Statement No. 13-RJ	Written Rejoinder Testimony of Ann E. Bulkley
PAWC Statement No. 14-R	Rebuttal Testimony of James H. Cawley
<ul style="list-style-type: none"> • PAWC Exhibit JHC-1R 	Testimony of Scott J. Rubin re: <i>Pa. Pub. Util. Commission v. Colony</i>

- PAWC Exhibit JHC-2R

- PAWC Exhibit JHC-3R

**PAWC Statement No. 14-RJ
Cawley**

PAWC Statement No. 15-R

- PAWC Exhibit TB-1R

**PAWC Statement No. 16-R
Abruzzo**

- PAWC Exhibit ECA-1R
- PAWC Appendix A-ECA

PAWC Statement No. 17-R

- PAWC Appendix A-TD
- PAWC Exhibits TD-1R
- PAWC Exhibits TD-2R
- PAWC Exhibits TD-3R
- PAWC Exhibit TD-4R
- PAWC Exhibit TD-5R_Confidential

Water Systems, Ltd., Docket No. R-00922375 (Order entered June 10, 1993)

Selected Pages from Nicholas B. Wainwright, *History of the Philadelphia Electric Company 1881-1961* (Philadelphia, PA 1961)

Re Utility Rates During Economic Emergency, 3 P.U.R 123 (April 2, 1934)

Written Rejoinder Testimony of James H.

Rebuttal Testimony of Toby Bishop

Resume and Listing of Prior Sponsored Testimony of Toby Bishop

Rebuttal Testimony of E. Christopher

(Public & Confidential Versions)

Summary of CodeRed, Website and Social Media Posting

Resume of E. Christopher Abruzzo

**Rebuttal Testimony of Tawana Dean
(Public & Confidential Versions)**

Resume of Tawana Dean

PAWC Brochure – H2O Help to Others Program

Press Release, *PUC Begins Annual ‘Be Utility Wise’ Consumer-Education Events; Friday’s Erie Conference is First of Eight Statewide Events* (Sept. 10, 2019)

Flyer re February 23, 2019 Program re Energy Conservation & Assistance Programs/Water Assistance Programs and Conservation Tips by PA PUC and PAWC

Flyer re May 21, 2020 Pittsburgh Black Elected Officials Coalition Town Hall Event “PA PUBLIC UTILITIES DURING & AFTER COVID-19”

PUC Bureau of Consumer Services Presentation Entitled “Regulatory and Policy Update” (Sept. 25, 2019)

- PAWC Exhibit TD-6R

September 8, 2020 Letter re NAWC
Support for House Bill 2816 (Utility
Security for Seniors, Families and Small
Businesses Act)

PAWC Statement No. 18-R

Rebuttal Testimony of Preston N. Pallas

- PAWC Exhibit PNP-1R
- PAWC Exhibit PNP-2R_Confidential

Resume of Preston N. Pallas
American Water Pennsylvania Resource DocumentDB1/

2. Bureau of Investigation and Enforcement

On behalf of **Christine Wilson:**

- I&E Statement No. 1
- I&E Exhibit No. 1
- I&E Statement No. 1-SR
- I&E Exhibit No. 1-SR

On behalf of **Anthony Spadaccio:**

- I&E Statement No. 2
- I&E Exhibit No. 2
- I&E Statement No 2-SR

On behalf of **Joseph Kubas:**

- I&E Statement No. 3
- I&E Exhibit No. 3
- I&E Statement No. 3-R
- I&E Statement No. 3-SR

On behalf of **Ethan Cline:**

- I&E Statement No. 4
- I&E Exhibit No. 4
- I&E Statement No. 4-SR
- I&E Exhibit No. 4-SR

On behalf of **Esyan Sakaya:**

- I&E Statement No. 5
- I&E Statement No. 5-SR

3. **Office of Consumer Advocate (OCA) Statements and Exhibits**

OCA Statement 1, Direct Testimony of Scott J. Rubin

Appendix A:	Curriculum vitae
Schedule SJR-1:	Pandemic-related data for counties served by PAWC
Schedule SJR-2:	Excerpt from Board of Governors of the Federal Reserve System, Report on the Economic Well-Being of U.S. Households in 2019, Featuring Supplemental Data from April 2020 (released May 14, 2020)
Schedule SJR-3: loss in	Experienced loss of employment income since mid-March, and expected income the next four weeks, Pennsylvania households by selected characteristics, as of the week ending July 21, 2020
Schedule SJR-4: paid	How Pennsylvania households who lost employment income since mid-March their bills in the past 7 days, as of the week ending July 21, 2020
Schedule SJR-5: National	Impact of COVID-19 on Consumer Energy Use & Outlook: Results of EPRI Survey (April 29, 2020)
Schedule SJR-6:	Water COSS: Allocation of late payment fees based on actual 2019
Schedule SJR-7:	Water COSS: Allocation of Citizens Acquisition CIAC and CAC
Schedule SJR-8:	Results of OCA Proposed Changes in Water COSS Before Subsidies
Schedule SJR-9: <i>Financing and</i>	Excerpt from Water Environment Federation Manual of Practice No. 27, <i>Charges for Wastewater Systems</i> (4 th edition)

Copies of Interrogatory Answers Referenced in the Testimony

OCA-04-005 012	OCA-07-001	OCA-08-006	OCA-08-
OCA-04-018 16-D	OCA-08-003	OCA-08-009	I&E-RS-
OCA-04-025 23-D	OCA-08-004	OCA-08-010	I&E-RS-

OCA Statement 1SR, Surrebuttal Testimony of Scott J. Rubin

Schedule SJR-10-SR: Updated pandemic-related figures and tables

OCA Statement 2, Direct Testimony of Ralph C. Smith – Confidential and Public Versions

Attachment RCS-1:	Background and Qualifications
Exhibit LA-1:	Schedules showing Revenue Requirement, Rate Base, Net Operating Income and Adjustments for the Water and Wastewater utility operations

Exhibit LA-2: Schedules Showing Recommended Adjustments

Exhibit LA-3: Selected Non-Confidential Documents Referenced in the Testimony and Exhibits LA-1 and LA-2

Exhibit LA-4: Selected **Confidential** Documents Referenced in the Testimony and Exhibits LA-1 and LA-2

Exhibit LA-5: American Water Works, Inc. Form 10-K for the period ending December 31, 2019

OCA Statement 2SR, Surrebuttal Testimony of Ralph C. Smith – Confidential and Public Versions

Exhibit LA-6: Revised Revenue Requirement Summary Schedules showing Revenue Requirement, Rate Base, Net Operating Income, Cost of Capital, and Summarized Adjustments for the Water and Wastewater Utility Operations Relating to FPFTY 2021 on a Year-End Basis

Exhibit LA-7: Schedules Showing Recommended Adjustments Relating to FPFTY 2021 on a Year-End Basis

Exhibit LA-8: Schedules showing Recommended and/or Corrected Adjustments Relating to Rate Year 2022 on an Average Basis

Exhibit LA-9: Present Value Analysis Applied to PAWC's JRW-3 Presentation re Unprotected EADIT amortization

Exhibit LA-10: Federal Reserve Statistical Release Consumer Credit August 2020 – released 10/7/2020

OCA Statement 3, Direct Testimony of Aaron L. Rothschild

Appendix A: Resume of Aaron L. Rothschild

Appendix B: Testifying Experience of Aaron L. Rothschild

Schedule ALR-1: Cost of Capital – Water and Wastewater 2021 and 2022

Schedule ALR-2: Cost of Equity

Schedule ALR-3: Discounted Cash Flow - Indicated Cost of Equity

Schedule ALR-4: Capital Asset Pricing Model - Indicated Cost of Equity

Schedule ALR-5: Water Proxy Group

Exhibit 1: Value Line Water Utility Industry Report - July 10, 2020

OCA Statement 3SR, Surrebuttal Testimony of Aaron L. Rothschild

Schedule ALR-SR4: Capital Asset Pricing Model – Working Papers

OCA Statement 4, Direct Testimony of Roger D. Colton

Schedule RDC-1: Collections Efficiency

Schedule RDC-2: PAWC Income Eligibility Determinations and Enrollment
Appendix A: Colton Vitae

OCA Statement 4SR, Surrebuttal Testimony of Roger D. Colton

Schedule RDC-1SR: PAWC Response to OCA-05-002

OCA Statement 5, Direct Testimony of Barbara R. Alexander – Confidential and Public Versions

Exhibit BA-1: Curriculum Vitae
Exhibit BA-2: PAWC Customer Call Center Data and Calculation of the Annual Average Results
Exhibit BA-3: PAWC Response to OCA-01-001, Attachment 6
Exhibit BA-4: “How to Construct a Service Quality Index in Performance-Based Ratemaking”, The Electricity Journal, April, 1996

OCA Statement 5SR, Surrebuttal Testimony of Barbara R. Alexander - Confidential and Public Versions

OCA Statement 6, Direct Testimony of Terry L. Fought

Appendix A: Background & Qualifications
Exhibit TLF-1: Listing of Complaints Received by PAWC Water System

OCA Statement 6SR, Surrebuttal Testimony of Terry L. Fought – Confidential and Public Versions

4. Office of Small Business Advocate (OSBA)

- Direct Testimony and Exhibits of Brian Kalcic, labeled OSBA Statement No. 1
- Rebuttal Testimony and Exhibit of Brian Kalcic, labeled OSBA Statement No. 1-R
- Surrebuttal Testimony and Exhibit of Brian Kalcic, labeled OSBA Statement No. 1-S

5. Coalition for Affordable Utility Services and Energy Efficiency In Pennsylvania (Cause-Pa)

- Direct Testimony of CAUSE-PA's expert witnesses as follows:
 - CAUSE-PA Statement 1, the Direct Testimony of Mitchell Miller
 - 71 pages of direct written testimony
 - CAUSE-PA Exhibit MM-1 through MM-6: Water and Wastewater Burden Tables, 2021 and 2022
 - CAUSE-PA Appendix A: Resume of Mitchell Miller
 - CAUSE-PA Appendix B: Cited Interrogatory Responses
 - CAUSE-PA Statement 2, the Direct Testimony of Daniel G. Vitek, Esq.
 - 30 pages of direct written testimony
 - Appendix A: Daniel Vitek Resume
 - Appendix B: Cited Interrogatory Responses
 - CAUSE-PA Statement 3, the Direct Testimony of Judith Lewis
 - 36 pages of direct written testimony
 - Appendix A: Resume of Judith Lewis, Esq.
 - Appendix B: Cited Interrogatory Responses
- Surrebuttal Testimony of CAUSE-PA's expert witnesses as follows:
 - CAUSE-PA Statement 1-SR, the Surrebuttal Testimony of Mitchell Miller
 - 22 pages of surrebuttal written testimony
 - Appendix A: Cited Interrogatory Responses
 - CAUSE-PA Statement 2-SR, the Surrebuttal Testimony of Daniel G. Vitek, Esq.
 - 11 pages of surrebuttal written testimony
 - CAUSE-PA Statement 3-SR, the Surrebuttal Testimony of Judith Lewis
 - 4 pages of surrebuttal written testimony
- Verification of Mitchell Miller
- Verification of Daniel G. Vitek, Esq.
- Verification of Judith Lewis, Esq.

6. Pennsylvania-American Water Large Users Group (PAWLUG)

1. PAWLUG Statement No. 1 – Direct Testimony and Exhibits of Billie S. LaConte
2. PAWLUG Statement No. 1-R –Rebuttal Testimony of Billie S. LaConte
3. PAWLUG Statement No. 1-S –Surrebuttal Testimony of Billie S. LaConte
4. Verification of Billie S. LaConte

7. AK Steel Corporation STATEMENTS AND EXHIBITS

1. AK Steel Statement No. 1 – Direct Testimony and Exhibits of Richard A. Baudino
2. AK Steel Statement No. 1-SR – Surrebuttal Testimony of Richard A. Baudino
3. Verification of Richard A. Baudino

8. Commission on Economic Opportunity (CEO) Exhibit

1. CEO Statement No. 1, Direct Testimony of Eugene M. Brady
2. Verification of Eugene M. Brady.