COMMONWEALTH OF PENNSYLVANIA

PATRICK M. CICERO
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

@pa_oca
/pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

September 12, 2023

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

Re: Pennsylvania Public Utility Commission
v.
Columbia Water Company
Docket No. R-2023-3040258

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Main Brief in the above-referenced proceeding.

Copies have been emailed to the parties listed on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Barrett C. Sheridan
Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
BSheridan@paoca.org

Enclosures:
cc: The Honorable Mary D. Long (**email only**)
The Honorable Charece Z. Collins (**email only**)
Nicholas Miskanic, ALJ's Legal Assistant (**email only**: nmiskanic@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
v.	:	Docket No. R-2023-3040258
Columbia Water Company	:	

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Main Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below. This document was filed electronically on the Commission's electronic filing system.

Dated this 12th day of September 2023.

SERVICE BY E-MAIL ONLY

Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
carwright@pa.gov
Counsel for I&E

Whitney E. Snyder, Esquire
Thomas J. Sniscak, Esquire
Philip D. Demanchick Jr., Esquire
Hawke McKeon & Sniscak LLP
100 North Street
Harrisburg, PA 17101
wesnyder@hmslegal.com
tjsniscak@hmslegal.com
pddemanchick@hmslegal.com
Counsel for Columbia Water Company

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923
sgray@pa.gov
Counsel for OSBA

Sandra E. Shaub
3282 Horizon Drive
Lancaster, PA 17601
Sandishaub@comcast.net

Vincent E. Collier III
3287 Horizon Drive
Lancaster, PA 17601
vecollierIII@gmail.com

/s/ Barrett C. Sheridan
Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
BSheridan@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
EGannon@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048
Dated: September 12, 2023

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	Docket Nos. R-2023-3040258
v.	:	C-2023-3040567
	:	C-2023-3040746
Columbia Water Company	:	

MAIN BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. No. 83487
EGannon@paoca.org

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
BSheridan@paoca.org

Counsel for
Patrick M. Cicero
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048

Dated: September 12, 2023

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Administrative Orders

Statutes

Regulations

Other Administrative Materials

Other Published Materials

LIST OF ACRONYMS AND ABBREVIATIONS

American Water Works Association	AWWA
Boil Water Advisory	BWA
Bureau of Investigation & Enforcement	I&E
Capital Asset Pricing Model	CAPM
Columbia Water Company	CWC or Company
Discounted Cash Flow	DCF
East Donegal Township Municipal Authority	EDTMA
Equity Risk Premium	ERP or MRP
Federal Energy Regulatory Commission	FERC
Local Distribution Companies	LDC
Market Risk Premium	MRP or ERP
Office of Consumer Advocate	OCA
Office of Small Business Advocate	OSBA
Operating & Maintenance	O&M
Pennsylvania Corporate Net Income Tax	CNIT
Public Utility Commission	PUC or Commission
Risk Premium Analysis	RP
Weighted Average Cost of Capital	WACC

I. INTRODUCTION

A. History of the Proceeding

On April 28, 2023, Columbia Water Company (CWC or Company) filed Supplement No. 121 to Tariff – Water Pa. P.U.C. No. 7 (Supplement No. 121) with the Pennsylvania Public Utility Commission (PUC or Commission) to become effective June 27, 2023. Through this base rate filing, as revised, the Company has sought Commission approval of rates designed to increase CWC's total annual operating revenues for water service by approximately $999,900, or 14.2%. The Company's filing is based upon a historic test year ending December 31, 2022 (HTY) and future test year ending December 31, 2023 (FTY).

The proposed tariff would increase rates in two of CWC's rate districts, Columbia and Marietta, under a plan to consolidate the districts' rates, without affecting the Company's third rate district, the former East Donegal Township Municipal Authority (EDTMA) system. For residential customers in the Columbia rate district, the Company projected the filed-for revenue increase would increase monthly bills from $37.67 to $40.04, or 6.3% (based on usage of 3,800 gallons). For residential customers in the Marietta district, CWC projected the revenue increase would increase monthly bills from $32.57 to $40.04 per month, or by 22.9% (at 3,800 gallons). These amounts do not include the surcharge for CWC's PENNVEST loan repayment. The Company has proposed no change to that surcharge, which currently adds a flat rate of $9.69 per month to Columbia rate division customer bills (excluding public fire protection). *The Columbia Water Co. Supplement No. 117 To Tariff – Water Pa. P.U.C. No. 7*, R-2022-3036936, 4 (Order Feb. 9, 2023).[1]

[1] www.puc.pa.gov/pcdocs/1773526.pdf. Links to unpublished Commission Orders and administrative materials cited in this brief are provided in footnotes.

CWC is a public water utility serving customers in portions of Lancaster and York counties. As of December 31, 2022, CWC provided water service to approximately 12,154 customers, including 11,440 residential customers who are distributed among three rate divisions: Columbia 8,742, Marietta 1,152, and East Donegal 1,546. The communities served by CWC include the Townships of West Hempfield, Rapho, East Donegal and Manor as well as the Boroughs of Columbia, Mountville and Marietta in Lancaster County and Hellam Township in York County.

On May 9, 2023, the Office of Small Business Advocate filed a Formal Complaint and Public Statement. On May 17, 2023, the Office of Consumer Advocate filed a Formal Complaint and Public Statement challenging the justness and reasonableness of the proposed rate increase. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on May 7, 2023 and, on June 9, 2023, two consumers filed individual Complaints. On June 15, 2023, the Commission entered an Order suspending the Company's proposed tariff supplement and rate increase until January 27, 2024, and assigned the proceeding to the Office of Administrative Law Judge, with the Honorable Mary D. Long and Charece Z. Collins (ALJs Long and Collins) presiding.

A Prehearing Conference was held on June 15, 2023, before ALJs Long and Collins where the parties established rules for discovery, a procedural schedule, and the complaints of the ratepayers, OCA, and OSBA were consolidated, among other things.

In support of its positions on CWC's rate filing and consistent with the procedural schedule, on August 1, 2023, the OCA filed OCA Statement 1, the Direct Testimony of Jennifer L. Rogers[2]; OCA Statement 2, the Direct Testimony of David J. Garrett[3]; OCA Statement 3, the

---

[2] Ms. Rogers is the Lead Economist at Exeter Associates, Inc. and is an independent contractor specializing in public utility regulation. Ms. Rogers has represented several state agencies as well as the U.S. Department of Defense

Direct Testimony of Jerome D. Mierzwa[4]; and OCA Statement 4, the Direct Testimony of Terry L. Fought.[5] On August 14, 2023, OCA filed Rebuttal Testimony by OCA witness Mierzwa, OCA Statement 3R. On August 22, 2023, OCA filed Surrebuttal Testimonies by OCA witnesses Rogers, Garrett, Mierzwa and Fought, OCA Statements 1SR, 2SR, 3SR[6] and 4SR, respectively.

The OCA opposes the Company's proposed rate increase because it is unjust and unreasonable, though the OCA does support the Company's proposed unification of the Columbia and Marietta rate district rates. The OCA's adjustments result in an annual revenue increase of $657,819 (9.1%). Tables showing the OCA's calculated revenue requirement and reflecting the OCA's accounting adjustments and cost of capital, are also attached to this Main Brief in Appendix A. *See* Appendix A, Tables I-IV. As required by the Interim Order on Briefs

---

before public utility commissions in four different states, primarily addressing revenue requirement issues. She has completed ratemaking curricula through the National Association of Regulatory Utility Commissioners Utility Rate School, Institute of Public Utilities Accounting and Ratemaking Course, as well as EUCI's Electric Cost-of-Service Course. Ms. Rogers' background and qualifications are attached as Appendix A to OCA Statement 1.

[3] Mr. Garrett is the managing member of Resolve Utility Consulting, LLC. He is an independent consultant specializing in public utility regulation. Mr. Garrett has represented numerous consumer groups and state agencies in utility regulatory proceedings, primarily in the areas of cost of capital and depreciation. He is a Certified Depreciation Professional with the Society of Depreciation Professionals. He is also a Certified Rate of Return Analyst with the Society of Utility and Regulatory Financial Analysts. Mr. Garrett's background and qualifications are attached as Exhibit DJG-1 to OCA Statement 2.

[4] Mr. Mierzwa is a Principal of Exeter Associates, Inc., with over 30 years of public utility regulatory experience. At Exeter, Mr. Mierzwa has been involved in purchased gas cost allocation analysis and rate design analysis, conducting management audits and similar investigations of the natural gas supply and procurement policies and practices of local distribution companies (LDCs), and has provided assistance in proceedings before the Federal Energy Regulatory Commission (FERC). Mr. Mierzwa has participated in the planning of natural gas procurements for major federal installations located in various regions of the country. Mr. Mierzwa has been involved in evaluating performance-based incentive regulation for LDC purchased gas costs and the unbundling of LDC services. Mr. Mierzwa has participated in developing utility class cost-of-service studies, has presented testimony sponsoring gas, water and wastewater utility cost-of-service studies, least cost gas procurement and incentive regulation, in addition to presenting testimony addressing utility rate base and revenues. Mr. Mierzwa's background and qualifications are set forth in OCA Statement 3.

[5] Mr. Fought has been a licensed engineer in Pennsylvania since 1975, is licensed in New Jersey and Virginia and has been a consulting engineer since 1983. He received his Bachelor of Civil Engineering from Cleveland State University. He has been involved in the design, construction and operation of water and wastewater facilities for over 40 years. He has also served as a consultant to the OCA for water and wastewater rate cases, complaint proceedings, investigations, and applications since 1984. Mr. Fought's background and qualifications are attached as Appendix A to OCA Statement 4.

[6] OCA St. 3SR and Schedules JDM-1 and JDM-2 were corrected on the record at the hearing on August 28, 2023 and also by Errata admitted into the record by Interim Order issued on September 7, 2023 in this matter.

and Closing of the Record issued on August 30, 2023, tables showing a class rate impact analysis including (1) proposed monthly customer charges and percentage of increase from existing rates and (2) proposed impact on the average customer bill in dollars and percentage of increase are attached as Appendix B, Tables A-D. Appendix C provides the OCA's proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs. Appendix D contains a list of the Testimony and Exhibits sponsored by the OCA.

B. Rates Must Reflect the Realities of CWC's Multiple Rate Zones and Choices of Debt Financing.

The Company should be allowed no more than $657,819 as an increase in annual revenues to be collected through base rates from the Company's Columbia and Marietta rate district customers. App. A; Table I. This is the amount that can reasonably be demonstrated by the record.

In evaluating the Company's revenue requirement claim, the Commission must consider the fairness of the Company's allocation and use of certain constructs for ratemaking.

The OCA has developed its position cognizant of the fact that the Company acquired the East Donegal Municipal Township Authority in early 2022. For the purpose of ratemaking, the Company proposed no increase in rates for the new EDMTA rate district customers. Starting with the Company's rate filing and May 2023 Errata to the rate filing and carrying through to an interest expense deduction in rebuttal, the Company's position is that the direct costs of serving the EDMTA rate district customers have now been removed from the Company's claim. The OCA disagrees. OCA St. 1SR at 15-21.

The OCA proposed no adjustment to the Company's use of PENNVEST loans to fund a portion of plant in service, tied to the Company's use of a PENNVEST surcharge to collect revenue to pay for the loan. The Company removed PENNVEST revenues and PENNVESTfunded rate base for ratemaking. GDS Exh. 1 at 1-2, 1-5. However, the Company has claimed that surcharge revenues have tax consequences which should be reflected in the Company's cost of service. CWC St. 2R at 23; CWC St. 2RJ at 14. This undercuts CWC's assertion that PENNVEST debt should not be considered for ratemaking and, specifically, in evaluating the reasonableness of the Company's proposal to use a capital structure with such a small debt ratio (36.66%) for ratemaking. Tr. 99, ln. 13 - 100, ln. 20.

In determining what level of revenues and rates the Company's Columbia and Marietta rate district customers should pay, CWC has drawn unreasonable lines for ratemaking, relative to EDMTA and PENNVEST issues are reasonable.

C. Burden of Proof

CWC bears the burden of proof to establish the justness and reasonableness of every element of its requested rate increase. As set forth in Section 315(a) of the Public Utility Code:

> Reasonableness of rates – In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon the complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

66 Pa. C.S. § 315(a). The Pennsylvania Commonwealth Court has interpreted the utility's burden of proof in a rate proceeding as follows:

> It is well-established that in general rate increase proceedings, the burden of proof does not shift to parties challenging a requested rate increase. Rather, the utility's burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one that that burden remains with the public utility throughout the course of the rate proceeding. It has been held that there is no similar burden placed on other parties to justify a proposed adjustment to the utility's filing.

Pa. PUC v. Pennsylvania American Water Co., 2004 Pa. PUC LEXIS 29 at *16-18 (Jan. 29, 2004) (*PAWC 2004*). To the extent that CWC has failed to meet its burden of proof for each of its claims, the Commission must reject those claims.

The Pennsylvania Supreme Court has stated that the party with the burden of proof has a formidable task to show that the Commission may lawfully adopt its position. Even where a party has established a prima facie case, the party with the burden must establish that "the elements of that cause of action are proven with substantial evidence which enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary." *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983). Furthermore, it is well-established that the "degree of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence." *Lansberry v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. Ct. 1990) (*Lansberry*). Additionally, the evidence must be substantial and legally credible, and cannot be mere "suspicion" or a "scintilla" of evidence. *Lansberry* at 602. Thus, a utility has an affirmative burden to establish the justness and reasonableness of every component of its rate request.

The OCA notes that Pennsylvania law is clear that there is no similar burden for a party proposing an adjustment to a utility base rate filing. *See, e.g., Berner v. Pa. PUC,* 116 A.2d 738 (Pa. 1955) (*Berner*). In *Berner*, the Pennsylvania Supreme Court stated:

> [T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations and that is the burden which the utility patently failed to carry.

Berner at 744. The Commission recognizes this standard in its rate determinations. *Pa. PUC v. Equitable Gas Co.*, 57 Pa. PUC 423, 471 (1983); *see also University of Pa. v. Pa. PUC,* 485 A.2d 1217 (Pa. Cmwlth. Ct. 1984); *Pa. PUC v. PPL Elec. Util. Corp.*, 237 PUR4th 419 (PaPUC 2004). Thus, it is unnecessary for the OCA (or any challenger) to prove that the Company's proposed rates are unjust, unreasonable, or not in the public interest. To prevail in its challenge, Pennsylvania law requires only that the OCA show *how* the Company failed to meet its burden of proof. While subtle, this critical distinction shows that parties opposing a utility in a rate proceeding need only to shift the burden of going forward to prevail. The burden of proof will not shift to an intervener that is challenging the requested rate increase. *Pa. PUC v City of Bethlehem*, 2011 Pa. PUC LEXIS 190, *11 (2011). However, this does not mean that a utility must affirmatively defend claims that no other party has brought or question. The Pennsylvania Commonwealth Court has held:

> While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

Allegheny Center Assocs. v. Pa. PUC, 570 A.2d 149, 153 (Pa. Cmwlth. Ct. 1990); *see also Pa. PUC v. Equitable Gas Co.*, 73 Pa. PUC 310, 359-60 (1990).

In conclusion, CWC must affirmatively demonstrate the reasonableness of every element of its claims and demonstrate that its proposed rates are just, reasonable, and in the public interest. The OCA will show that the Company has failed to satisfy its statutory burden and, thus, the Commission must deny the relief requested by the Company.

II. SUMMARY OF ARGUMENT

The record supports an increase of no more than $657,819 in annual revenues rather than the increase of $999,900 the Company has requested. *See* App. A; Table I.

As discussed herein, the OCA proposes adjustments pertaining to CWC's proposed capital structure and the cost of equity. Those adjustments are necessary to recognize that CWC has a lower debt ratio than the proxy group average and that either its ratemaking capital structure and/or estimated cost of equity must be adjusted to account for that technical and mathematical reality. The OCA's (and I&E's) rate of return recommendations serve to control costs to ratepayers and are much more representative of the regulated water utility industry and the proxy groups than CWC's proposal. To ensure reasonable rates, the Commission should adopt the OCA's adjustments to rate base including cash working capital, expenses including rate case, materials & supplies, maintenance, office and regulatory assessment expenses, the OCA also adjusted CWC's state income tax claim. The OCA respectfully submits this Main Brief in support of the individual adjustments that underlie the recommended revenue increase. Several revenue requirement issues have been resolved over the course of the proceeding as will be discussed below.

CWC failed to carry its burden that its proposed customer charges were reasonable as the record reflects them to be excessive and they should be reduced. I&E and OSBA agree. The level at which customer charges are set has particular impact on the customers in the Marietta rate district whose rates would be increased significantly more than rates for customers in the Columbia rate district, as part of the proposed rate unification. Based on the testimony of its engineering witness, the OCA also recommended that CWC make changes to its schedule for exercising isolation valves and record additional detail in its complaint logs, as discussed *infra*.

The Tables reflecting the OCA's adjustments and a complete set of schedules supporting the OCA's recommendation are attached to this Brief as Appendices A and B.

The OCA now submits this Main Brief in support of the positions set forth in the testimony of its witnesses in this case.

III. ISSUES RESOLVED AMONG THE PARTIES

A. Net Negative Salvage

In direct, OCA witness Rogers proposed a net negative salvage adjustment that would reduce rate base and added a normalized expense. OCA St. 1 at 19-24; OCA Sch. JLR-1, JLR-2, JLR-4. In surrebuttal, Ms. Rogers withdrew the adjustment. OCA St. 1SR at 21-22.

Company witness Shambaugh acknowledged the withdrawn OCA adjustment in his rejoinder testimony. CWC St. 2RJ at 1-2.

B. Membership Dues

In direct, OCA witness Rogers made an adjustment to correspond with an error acknowledged by the Company. Additionally, Ms. Rogers questioned whether the remaining expense that appeared related to lobbying expense should be included in the Company's claim. OCA St. 1SR at 23. In rebuttal, the Company revised its expense to reflect the corrected going-level adjustment. CWC St. 2R at 19. Additionally, the Company made a downward adjustment to remove additional lobbying expense. CWC St. 2R at 19. OCA witness Rogers accepted the Company's adjustments. OCA St. 1SR at 23-24. This particular OCA adjustment related to Membership Dues expense has been resolved.[7]

C. Mailing Expense

The OCA proposed adjustment to reduce the Company's going-level adjustment for mailing by $998 was accepted by the Company in rebuttal. OCA St. 1 at 12; OCA St. 1SR at 24; CWC 2R at 20. This particular OCA adjustment related to Mailing Expense has been resolved.

---

[7] The OCA notes that the EDTMA allocation adjustment issue has not been resolved, and impacts several expense categories, including Membership Dues, Mailing Expense, etc. The resolved issues discussed in Section III are limited to the particular adjustment described.

D. Director's Fees and Expenses

The OCA proposed an adjustment to remove $1,428 from the Company's per book value of $100,428 associated with Lancaster Trophy House and the Hamilton Club. In rebuttal CWC witness Shambaugh accepted the adjustment. OCA St. 1 at 13; OCA St. 1SR at 24; CWC St. 2R at 3, 20. This particular OCA adjustment related to Directors' Fees and Expenses has been resolved.

E. Interest Expense Deduction

In rebuttal, Mr. Shambaugh identified the need for OCA witness Rogers to recalculate her interest expense deduction to remove any interest expense associated with the EDTMA system. CWC St. 2SR at 23. Mr. Shambaugh indicated this change was necessary to "align with the Company's decision not to include any revenues, expense, or plant assets associated with the EDTMA system" in this base rate proceeding. CWC St. 2SR at 23. Mr. Shambaugh adjusted the Company's claimed level of interest expense by $51,063. CWC St. 2SR at 23; CWC Exh. GDS 2R, Supporting Sch. 1 and 2.

OCA witness Rogers accepted the Company's revised value for state tax, based on Mr. Shambaugh's recalculation of interest expense. OCA St. 1SR at 26. Ms. Rogers incorporated the Company's revised value in the OCA St. 1SR Surrebuttal schedules. *Id*.

F. Interest Synchronization Components

Based on its review of the Company's rejoinder testimony, the OCA determined to accept CWC's position that interest expense associated with the payment of PENNVEST loans should be accounted for in the interest synchronization calculation.

The impact of the OCA's agreement to include PENNVEST interest expense as a component in the interest synchronization calculation is addressed below. *See* Section VII.B.

infra. This impacted the OCA's interest synchronization adjustment, and therefore taxes, which changed the OCA's regulatory assessment adjustment since it is based on final revenue. These changes and the resulting update to the OCA recommended revenue requirement are reflected in this Brief and in the Rate Case and Rate Impact Tables attached in Appendices A and B.

IV. RATE BASE

A. Cash Working Capital

OCA witness Rogers agreed with the Company's use of the FERC 1/8th of operating and maintenance expense method of calculating cash working capital expense. OCA St. 1 at 5. The OCA's cash working capital adjustment is tied to the OCA adjustment to the Company's O&M expense claim. OCA St. 1SR at 2. OCA witness Rogers has made an adjustment to the cash working capital to reduce CWC witness Shambaugh's revised rate base by $25,501, as shown on OCA Schedule JLR-4 Surrebuttal. OCA St. 1SR at 2; App. A, Table I, col. C, ln. 25; CWC Exh. GDS 1R.

V. REVENUES

The OCA proposed no adjustments to the Company's level of revenues at present rates. OCA witness Rogers accepted the Company's correction to revenues made by Mr. Shambaugh in rebuttal. OCA St. 1SR at 2; CWC St. 2R at 5. According to Mr. Shambaugh, an error in the Company's rate model incorrectly reflected the PENNVEST revenues at present rates for the end of the FTY as $1,085,567. Mr. Shambaugh indicated the correct value should be $1,308,122. With that correction, Mr. Shambaugh explained that the corrected value of PENNVEST revenues at present rates at the end of the FTY would match the value of PENNVEST revenues deducted by the Company in CWC Exhibit GDS No. 1-R, pages 1-4. CWC St. 2R at 5. Further, the

Company's revenues at present rates for the end of the FTY was revised upwards to $7,244,296. CWC St. 2R at 5.

OCA witness Rogers accepted the update and reflected the Company's revised value in the OCA accounting schedules. OCA St. 1SR at 2; App. A, Table I, col. D, ln. 12.

VI. EXPENSES

A. Rate Case Expense

As OCA witness Rogers identified, the Company claimed a total rate case expense of $392,330, normalized over three years. OCA St. 1 at 6. Ms. Rogers recommended the normalization of expenses over a five-year period based on the period between rate cases, as documented in the Company's reply to discovery. *Id*. The Company's last three rate filings prior to the current filing were in 2008, 2013, and 2017. OCA St. 1 at 7 (citing CWC reply to OCA-1-28). The OCA adjustment to set rate case expense based upon a five-year normalization period is supported by the Company's history of base rate filings and Commission practice.

The Company opposed the OCA's recommended five-year normalization period. According to CWC witness Shambaugh,"[t]he Company projects that it will need to file another rate case in three years, which formed the basis for the three-year normalization period the Company used in this case." CWC St. 2R at 17. In support of the Company's position that Columbia and Marietta rate district customers should pay a higher normalized level of rate case expense than recommended by OCA, Mr. Shambaugh referenced the Company's agreement to not increase rates for the EDMTA district would end in less than three years. *Id*.; CWC St. 2RJ at 12-13. Company witness Shambaugh stated that the Company's expected LTIIP and lead service line filings should also weigh in favor of approval of a three-year normalization period. CWC St. 2R at 17-18.

The Commission should not adopt the Company's position. As OCA witness Rogers explained the Company's three-year anticipated rate normalization period is "speculative and not in line with accepted Commission practice…" OCA St. 1SR at 22. In both Ms. Rogers' Direct Testimony and Surrebuttal Testimony she references *A Utility Guide to Ratemaking* which states, "The Commission's practice is to recognize all prudently-incurred rate case expense and set a normalization period based upon historic filing frequency." Indeed, the Commission has held consistently that rate case expenses are normal operating expenses, and thus, normalization should be used and the normalization period should be based on the historical frequency of a utility's rate filings. *Pa. PUC v. Columbia Water Co.*, 2009 Pa. PUC LEXIS 1423 (2009); *Popowsky v. Pa. PUC*, 674 A.2d 1149, 1154 (Pa. Cmwlth. Ct. 1996); *Pa. PUC v. National Fuel Gas Dist. Corp.*, 84 Pa. PUC 134, 175 (1995); *Pa. PUC v. Roaring Creek Water Co.*, 73 Pa. PUC 373, 400 (1990). Further, the Commission has found that the normalization period is determined, "by examining the utility's actual historical rate filings, not upon the utility's intentions." *Pa. PUC v. City of Lancaster – Bureau of Water*, 2011 Pa. PUC LEXIS 1685 at *56-57; *Pa. PUC v. Metropolitan Edison Co.*, 2007 Pa. PUC LEXIS 5 (2007); *Pa. PUC v. City of Lancaster – Bureau of Water*, 2005 Pa. PUC LEXIS 44, *84 (2005). Consistent with the Commission's prior holdings, the rate case expense should be normalized over a period of five years to match the average time between historical rate filings. If, as CWC says, it will begin to more consistently file rate cases every three years then in future rate cases the normalization period will begin to align with this practice. However, in this proceeding, rates must be established based on known facts which supports a five-year normalization period.

The OCA adjustment to rate case expense in the amount of $52,311 is soundly supported and should be adopted by the Commission. OCA St. 1 at 6-7; OCA St. 1SR at 22; OCA Sch. JLR-6 SR; App. A, Table II, col. G, ln. 31.

B. Materials and Supplies Expense

OCA witness Rogers evaluated and then opposed parts of the Company's claim of $432,400 as the appropriate level of Materials and Supplies expense as of December 31, 2023. OCA St. 1 at 7-9; *see* CWC Exh. GDS 1 at 1-15 (Revised), 1-17 (Revised). The Commission should adopt the OCA's adjustment to both the Company's HTY claim and FTY going level adjustment, as described below, to establish an appropriate FTY level of Materials and Supplies expense to set just and reasonable rates.

1. The Company's Historic Test Year Expense Does Not Represent a Normal Level and Should Be Adjusted.

First, Ms. Rogers disputed the Company's selection of the HTY annual expense in the amount of $337,390 as an appropriate normal base amount, where her review of the past five years of this annual expense showed the HTY amount as abnormally high and the expense category as a highly variable cost element. OCA St. 1 at 7-8.

	2018	2019	2020	2021	2022
Materials and Supplies Expense	$277,720	$319,473	$282,301	$295,427	$377,390

OCA St. 1 at 8, chart (footnote omitted). Based upon her review, the HTY level of Materials and Supplies expense should be adjusted to $318,373, based upon the average of actual expense for the most recent three years.[8] OCA St. 1SR at 8, 12; OCA Sch. JLR-7 SR. Ms. Rogers' normalized amount of $318,373 gives weight to the Company's actual HTY level of expense, while also accounting for the variation of actual Materials and Supplies expense experienced by the Company over three years.

Ms. Rogers also considered the Company's explanation in discovery that costs in this category have been impacted by inflation and material shortages. OCA St. 1 at 8 (citing CWC

[8] The three-year average is $318,373, based upon 2020 expense of $282,301, 2021 expense of $295,427, and 2022 expense of $377,390. OCA Sch. JLR-7.

reply to I&E-RE-D-14 (CWC Exh. DTL-1R)). Based upon consideration of current economic developments, Ms. Rogers was not persuaded that material shortages will persist and observed economic information suggesting that growth in inflation is slowing. OCA St. 1 at 8. In reply to the rebuttal testimony of Company witnesses Lewis and Shambaugh, Ms. Rogers corrected certain misapprehensions by the Company witnesses.[9] OCA St. 1SR at 3, 9-11. Ms. Rogers' comments regarding inflation and supply chain issues were "made in conjunction with the point that supply chain issues which caused material shortages have begun to subside." OCA St. 1SR at 3-4, 8-12. Material costs that had risen due to shortages could be expected to abate as shortages end. Federal Reserve efforts to slow inflation would have the effect of preventing new or additional inflation from negating the change in materials costs as supplies improve. OCA St. 1SR at 4, 8-12. Using her skills as an economist, Ms. Rogers' surrebuttal provides additional point-by-point replies to the Company's theories of the influence and direction of inflation and supply chain constraints. OCA St. 1SR at 3-7, 8-12.

OCA witness Rogers' determination that the base level of Materials and Supplies expense should be a normalized level is supported by her review of historic levels of expense, including the 2022 HTY. Ms. Rogers' adjustment is soundly grounded by her professional assessment of the Company's explanation in discovery of the economic forces that contributed to the 2022 HTY level.

The Commission should adopt this first part of Ms. Rogers' adjustment to the Company's Materials and Supplies expense claim and use a normalized level of expense as the base, rather than the HTY value. Normalization based upon three years is appropriate in this context, to

[9] There is overlap and recurring themes in the OCA and CWC testimony related to the OCA's Materials and Supplies expense adjustment and the OCA's adjustment to Other – Maintenance expense as acknowledged by Ms. Rogers and the Company. OCA St. 1 at 7-9 (M&S), 9-11 (Other – Maintenance Expense); OCA St. 1SR at 3-7 (Other – Maintenance), 8-13 (M&S); *see* CWC St. 1R at 1 (M&S), 3 (Other – Maintenance); CWC St. 2R at 14-16 (M&S), 16 (Other – Maintenance).

protect ratepayers from overcollection of these expenses from customers. OCA St. 1 at 7-9; OCA St. 1SR at 12-13. In *Pa. PUC v. Total Environmental Solutions, Inc. – Treasure Lake Water Division*, 2008 Pa. PUC LEXIS 1227 at *100 (*TESI 2008*), the Commission referred to the ALJ's explanation of the purpose of normalization. The ALJ described normalization as "a ratemaking technique used to smooth out the effects of an expense item that occurs at regular intervals, but in irregular amounts. Normalization is the proper adjustment to make the test year expense representative of normal operations." *TESI 2008* at *72. A three-year period to normalize expenses is appropriate where there were fluctuations in year-to-year spending. *Pa. PUC et al. v. PECO Energy – Gas Div.*, 2021 Pa. PUC LEXIS 241 at *56, 59 (*PECO Gas*).

The Company's claimed base level of Materials and Supplies expense of $377,390 should be reduced by $59,017 to $318,373. OCA Sch. JLR-7 SR; App. A, Table II, col. G, ln. 32.

2. <u>The Company's Support for a Portion of Its Going Level Adjustment to Increase Materials and Supplies Expense Does Not Withstand Scrutiny.</u>

Ms. Rogers' second adjustment to the Company's Materials and Supplies expense claim is directed at a portion of the Company's Going Level adjustment . OCA St. 1 at 7-9. The Company's Going Level Adjustment No. 8 proposed an addition of $55,010 to the HTY base amount of expense to set the end of FTY level of expense for ratemaking. OCA St. 1 at 7-9; *see* CWC Exh. GDS 1 at 1-15 (Revised), 1-17 (Revised).

Ms. Rogers evaluated the Company's description of the components of that $55,010 increase for the FTY. OCA St. 1 at 8-9. In discovery, the Company was asked to "[p]rovide supporting documentation used to determine Going-Level Adjustment 8 of $55,010." CWC Exh. DTL-1R, CWC Resp. to I&E-RE-14-D. The Company's reply documented expenses incurred through June 9, 2023 as partial support. CWC Exh. DTL-1R, CWC Resp. to I&E-RE-14-D. In addition, CWC witness Lewis' discovery reply stated that the going level adjustment included $18,000 for a road restoration project:

> there was a water main break on Kinderhook Road which caused significant damage to this PaDOT roadway requiring full lane pavement restoration which will occur in 2023. Normally pavement restoration for a water main repair is confined to patch over the repair area. The restoration of this roadway is estimated to cost $18,000.

CWC Exh. DTL-1R (CWC reply to I&E-RE-14-D).

Based upon that information provided by the Company, Ms. Rogers concluded that this $18,000 Kinderhook Road restoration project does not reflect an annually recurring cost and therefore should be normalized, to prevent rates from being set to recover costs that are not incurred annually. OCA St. 1 at 8-9; OCA Sch. JLR-8. Ms. Rogers applied a five-year normalization period, similar to the period applied to normalize the Company's rate case expense. OCA St. 1 at 9. The effect of Ms. Rogers' adjustment is to reduce the Company's going level adjustment of $55,010 by $14,400 (4/5 of the $18,000). OCA Sch. JLR-8 SR. This OCA revised Going Level adjustment would still include recognition, at a normalized level, of this abnormal type of road restoration work expense.

Ms. Rogers' considered and was not persuaded by the Company's rebuttal and rejoinder testimony that alternately tried to cast the event and magnitude of an $18,000 roadway repair as normal and occurring annually. OCA St. 1SR at 9, 13-15; *see* CWC St. 2R at 16. As Ms. Rogers explained, the Company's rebuttal could not be squared with Company witness Lewis' prior discovery reply that explicitly characterized the $18,000 road restoration repair as an abnormal occurrence due to the significance of the damage that occurred. In the Company's own words, "[n]ormally pavement restoration for a water main repair is confined to patch over the repair area." OCA St. 1SR at 13 (quoting CWC reply to I&E-RE-14-D). The Company's rebuttal and even rejoinder position that road restoration projects are normal, recurring and of similar or greater magnitude than the projected $18,000 project is inconsistent with the Company's discovery response. OCA St. 1SR at 13-15; *see*, *e.g.*, CWC St. 2R at 16.

As Ms. Rogers further observed, if the $18,000 road restoration project related to a water main break was a normal event, then there should be no need for the Company to include the $18,000 as part of the Going Level adjustment to establish a FTY level of Materials and Supplies expense. OCA St. 1SR at 13-15.

Ms. Rogers also dismissed Company witness Lewis' statement in rebuttal that in 2023, the Company had incurred an even more expensive road restoration project of $29,000. OCA St. 1SR at 14-15; CWC St. 1R at 2. First, Mr. Lewis's statement lacked context and information sufficient to understand why the Company had not mentioned that project in Mr. Lewis' reply to discovery, the Company rate filing, or May Errata.[10] OCA St. 1SR at 15. Second, Ms. Rogers observed that even if the $29,000 project was so new that it could not have been referenced in the Company's rate filing or discovery replies, it would be improper to cherry pick such an incurrence of expense to set rates, without consideration of possible offsetting changes in cost of service. OCA St. 1SR at 15. The record simply does not reflect that the $18,000 portion of the CWC's Going Level claim is reasonable, supported by facts, or consistent with traditional ratemaking normalization principles and, thus, it did not carry its burden of proof on these issues. The OCA's $14,400 adjustment should be adopted. App. A, Table II, col. G, ln. 33.

3. <u>The Company's Alternative Proposed In Rejoinder Is Subject to the Same Flaws Identified by OCA Witness Rogers' Review of the HTY Expense and Going Level Adjustment and Should Not Be Adopted.</u>

As an alternative to Commission approval of the Company's entire Materials and Expense claim, Company witness Shambaugh proposed in rejoinder a three-year average

[10] The May Errata (as it was labeled when first filed by CWC) was subsequently attached to CWC Statement 2 as GDS Exh. 1 and is referred to in this Brief as CWC Exh. GDS 1.

comprised of 2021 actual expense, 2022 HTY actual expense, and the Company's projected 2023 FTY expense. CWC St. 2RJ at 11-12. As this alternative was presented in rejoinder, OCA witness Rogers had no opportunity to reply.

Nonetheless, the Commission should evaluate the elements of Mr. Shambaugh's proposed alternative and reject them based upon the OCA's testimony. Specifically, OCA witness Rogers has already shown that the Company's HTY level of expense is not normal and representative of recent, historic actual levels of expenses. OCA St. 1 at 7-9; OCA St. 1SR at 8-15. Yet the Company's alternative proposal would give the HTY level of Materials & Supply expense weight *twice*, first as the 2022 level, and second as the base for the projected 2023 level.

Further, the Company's alternative presumes that the entire Going Level adjustment of $55,010 should be accepted for ratemaking to result in the projected FTY expense of $432,400. CWC St. 2J at 12, Chart; *see* CWC Exh. GDS 1 at 1-15 (Revised). OCA witness Rogers properly parsed through the Company's support for the Going Level adjustment, identifying factual inconsistencies between the Company's discovery reply and testimonies regarding abnormal or normal road repair expense, as included in Materials and Supplies. OCA St. 1 at 7-9; OCA St. 1SR at 8-9, 13-15.

The Commission should not adopt Mr. Shambaugh's proposed alternative Materials and Supplies expense, which result in a reduction of $8,984 from the Company's FTY claim. CWC St. 2RJ at 12, Chart. Even alternatives proposed in rejoinder testimony must be supported by substantial evidence, to be accepted by the Commission for ratemaking.

4. <u>The OCA's Adjustments to the Company's Materials and Supplies Expense Claim Are Necessary to Assure That Ratepayers Pay Only a Reasonable and Justified Level of Expense for the Future Test Year</u>

The Company has not met its burden of proof to support its FTY expense of $432,400 for Materials and Supplies as reasonable for ratemaking. The Company's alternative Materials and

Supplies expense level, as presented in rejoinder, is no better supported because it is built upon elements of the Company's expense claim contested by OCA witness Rogers as unreasonable and overstated.

OCA witness Rogers' two step adjustment first adopts a normalized base level of $318,373 instead of the Company's abnormal high HTY amount. Second, Ms. Rogers reduces -- but does not entirely eliminate – the Company's going level adjustment of $55,010. The Company's reply to discovery and testimony does not support allowing $18,000 for unusual road restoration work as a recurring level of expense. The $55,010 going level expense reduced by Ms. Rogers' $14,400 adjustment allows an FTY expense increase, including a normalized increment for abnormal road restoration work expense. The Company's Materials and Supplies expense should be reduced by $73,417, the sum of the OCA adjustments. OCA St. 1S, Sch. JLR-7S, JLR-8S; App. A, Table II, col. G, ln. 32, 33.

C. Other - Maintenance Expense

1. The OCA's Proposed Adjustment to the Company's Other – Maintenance Expense Claim Is Well Supported.

OCA witness Rogers reviewed the Company's FTY expense claim for Other - Maintenance expense, historic level of actual expenses for the last five years, the Company's reply to related discovery, and the Company's related going level adjustment. OCA St. 1 at 9-11.

	2018	2019	2020	2021	2022
636.0 Other – Maintenance	$166,024	$202,508	$212,500	$229,295	$263,888

OCA St. 1 at 10, chart (footnote omitted). Ms. Rogers noted that the Company chose the 2022 per books expense amount of $263,888 as representing a normal level of expense prior to the addition of the going level adjustment of $36,902. OCA St. 1 at 9-10. Based upon her evaluation of the Company's claim for this expense, the level of Other – Maintenance should be set at a normalized level, prior to the addition of the Company's going level adjustment. The normalization, based on the average of the three most recent years of actual expense,[11] is $235,228 and results in a decrease to O&M of $28,660. OCA St. 1 at 10-11; OCA Sch. JLR-9 SR; App. A, Table II, col. G, ln. 34.

Ms. Rogers identified the normalization adjustment as necessary to avoid setting rates that would result in an overcollection from customers given that 2022 was an abnormally high year for this category of expense. OCA St. 1 at 10; OCA St. 1SR at 3. According to the Company's reply to discovery, the 2022 increase in costs was related to inflation and material shortages. OCA St. 1 at 10. Ms. Rogers was not persuaded to accept the Company's 2022 level of expense. OCA St. 1 at 10. First, the Company did not back up its position regarding inflation and supply chain issues with any analysis to show the actual impact of the issues on the increase in costs. OCA St. 1 at 10; OCA St. 1SR at 6. Second, the Company did not address whether the level of activities in a given year, which is variable, contributed to the increase in Other – Maintenance expense in 2022. OCA St. 1 at 10.

The Company's rebuttal and even rejoinder delved into the question sparked by the Company's own discovery reply as to the duration and actual impact of inflation and supply chain shortages on the Company's level of expense. CWC St. 1 at 3; CWC St. 2R at 16. The OCA has already summarized above as part of the Materials and Supplies expense discussion, Ms. Rogers' assessment, as an economist, that the Company's reliance on inflation and supply chain issues as justification for higher expense levels is not reflective of current developments and trends. *See* OCA St. 1 at 7-9 (M&S), 9-11 (Other – Maintenance Expense); OCA St. 1SR at

[11] The three-year average is $235,228, based upon 2020 expense of $212,500, 2021 expense of $229,295, and 2022 expense of $263,888. OCA Sch. JLR-9 SR.

3-7 (Other – Maintenance), 8-13 (M&S). For example, Ms. Rogers corrected the Company's misinterpretation of her Direct Testimony:

> wherein they appear to believe I am arguing because inflation growth has slowed, prices will decline. The point regarding inflation was made in conjunction with the point that supply chain issues which cause material shortages have begun to subside, as part of my larger explanation for why an average of the expenses in the prior three years would be more reflective in the future than using the 2022 abnormal high value.

OCA St. 1SR at 3-4.

Significantly, the burden lies with the Company to support its HTY level of expense for Other – Maintenance as appropriate to set just and reasonable rates, a burden that the Company has not met. OCA witness Rogers has identified the Company's HTY level of expense as not normal. *See* OCA St. 1SR at 6. Ms. Rogers asserted that the "Company has not provided any evidence that material shortages will continue into future" and "has not provided any analysis to show the actual impact of inflation and supply chain issues on CWC's increase in costs." OCA St. 1SR at 7. Further, the Company did not provide in rebuttal "evidence that the level of activity in 2022 was similar to prior years," a concern Ms. Rogers had raised in direct testimony, since "costs are also driven by the activities that occur in a given year." OCA St. 1SR at 7; *see* OCA St. 1 at 10. As Ms. Rogers explained, normalization of three recent years of actual expenses rather than the use of a single, abnormal high per books value is an appropriate method to assure just and reasonable rates that do not burden ratepayers. OCA St. 1SR at 3, 12-13.

The OCA adjustment to reduce the Company's HTY level of Other – Maintenance by $28,600 to a normalized level is well supported in principle and on the record. *See* OCA Sch. JLR-9 SR; App. A., Table II, col. G, ln. 34.

2. <u>The Company's Alternative Proposed in Rejoinder Is Subject to the Same Flaws Identified By OCA Witness Rogers' Review of the HTY Expense and Should Not Be Adopted.</u>

In rejoinder, Company witness Shambaugh proposed an alternative adjustment to the Company's Other – Maintenance expense, if the Commission rejects the Company's full claim without any adjustment. CWC St. 2RJ at 9. Company witness Shambaugh proposed a three-year average comprised of 2021 actual expense, 2022 HTY actual expense, and the Company's projected 2023 FTY expense. *Id.* As Mr. Shambaugh presented this alternative in rejoinder, OCA witness Rogers has had no opportunity to reply.

Nonetheless, the Commission should evaluate the elements of Mr. Shambaugh's proposed alternative and reject them based upon the OCA's testimony. Specifically, OCA witness Rogers' recommended normalization adjustment is based on a three-year average of actual Other – Maintenance expense. Ms. Rogers calculated the normalization adjustment because the Company's HTY level of expense is not normal and representative of recent, historic actual levels of expenses. OCA St. 1 at 9-11; OCA St. 1SR at 3-7. Yet the Company's alternative proposal would give the HTY level of Other - Maintenance expense weight twice, first as the 2022 level, and second as the base for the projected 2023 level.

The Commission should not adopt Mr. Shambaugh's proposed alternative Other – Maintenance expense, which result in a reduction of $3,343 from the Company's FTY claim. CWC St. 2RJ at 9, Chart. As discussed above in the context of Materials & Supplies expense, the alternatives proposed in rejoinder testimony are subject to the same burden of proof as the Company's primary claims. The Company has not provided substantial evidence to support its alternative level of expense, and it should not be accepted for setting rates.

3. The OCA's Adjustment to the Company's Other – Maintenance Expense Claim Is Necessary to Assure That Ratepayers Pay Only a Reasonable and Justified Level of Expense for Ratemaking

The Company's has not met its burden of proof to show that its primary or alternative claim for Other – Maintenance expense is reasonable for setting rates. OCA witness Rogers' testimony shows that the elements used to derive both claims are overstated.

The OCA adjustment to reduce the Company's HTY level of Other – Maintenance by $28,600 to a normalized level is well supported in principle and on the record. OCA Sch. JLR-9 SR; App. A, Table II, col. G, ln. 34; *see TESI 2008* at *72, 100; *see also PECO Gas* at *56, 59.

D. Office Expenses

In her Direct Testimony, Ms. Rogers made an adjustment to normalize over five years an expense related to Columbia's upgrading of billing software. OCA St. 1 at 11; OCA Sch. JLR-10. Based upon review of the Company's May Errata filing and discovery reply, Ms. Rogers determined that the upgrade expense of $25,995 included in the Company's Going Level Adjustment should be treated as a one-time expense rather than an annually recurring cost. OCA St. 1 at 11; OCA Sch. JLR-10.

Ms. Rogers stated that Mr. Shambaugh agreed with Ms. Rogers' characterization of this expense as a one-time expense, but recommended normalization over a three-year period. The Company's proposed normalization period is not based upon the historic frequency of upgrading billing software. Rather, Company witness chose a three-year period consistent with his rate case normalization testimony. OCA St. 1SR at 23. The Company's revised this Going Level adjustment to reflect normalization of the $25,995 expense over three years, a reduction to the Company's expense claim. CWC St. 2R at 18-19; CWC Exh. GDS 1R at 1-8.

The OCA disagrees with the Company's proposed three-year normalization period for the $25,995 expense. As noted above, the Company favors the three-year normalization period in part based upon the Company's plans to increase EDMTA rates in the future. *See* CWC St. 2R at 17; CWC St. 2RJ at 12-13. As discussed above in regard to rate case expense, the future timing is within the utility's discretion. CWC is asking for rates to be set at a higher level based on future intent. Rates should not be set higher based on the Company's future plans. The Commission should not accept the Company's arguments in favor of a three-year normalization period rather than five-years as persuasive. The OCA adjustment to reduce the Company's revised Office Expense by $3,466 should be adopted by the Commission. OCA St. 1SR at 23; OCA Sch. JLR-10 SR; App. A, Table II, col. G, ln. 35.

E. Regulatory Assessments

OCA witness Rogers and the Company have applied similar approaches to identify the appropriate level of adjustment to the Company's Regulatory Assessment claim, at different revenue levels. OCA St. 1 at 13; CWC St. 2R at 24; OCA St. 1SR at 24-25.

In surrebuttal, OCA witness Rogers calculated an updated adjustment to the Company's revised Regulatory Assessment claim. OCA St. 1SR at 25; OCA Sch. JLR-14 SR. Based upon the OCA's surrebuttal position, the Company's revised claim should be decreased by $1,991. OCA St. 1SR at 25; CWC Exh. GDS 2R; App. A, Table II, col. M, ln. 36.

F. East Donegal Township Municipal Authority Expenses

The Company serves customers in three rate districts: Columbia, Marietta, and EDMTA. The fact that the Company has proposed to increase base rates only for the customers in the Columbia and Marietta rate districts requires careful scrutiny of the Company's cost of service claim to assure that Columbia and Marietta customers are not required to pay costs related to the

Company's provision of service to customers in the EDTMA rate district. OCA St. 1 at 14-15. In 2014, the Commission directed the Company to in the future "provide additional data to support the Company's proposed allocation of costs between" the rate district covered by the rate filing (Columbia district) and the rate district then excluded from the proposed increase in rates (Marietta). *Pa. PUC v. Columbia Water Co*., R-2013-2360798, 94 (Order Jan. 23, 2014) (*CWC 2014*).[12] The Commission clarified that the "additional data" to supplied by CWC should include "information regarding the time spent by its officers and directors and other Company personnel" between the two rate divisions. *CWC 2014* at 94.

In the Company's April 2023 rate filing, the Company did include costs related to service to the EDMTA customers. In the May Errata, the Company stated that it removed revenues, expenses, and rate base assets associated with the EDMTA rate district, as the Company "is not requesting to earn a return on and a return of these assets in this proceeding, nor is it requesting recovery of EDMTA-related operational expenses at this time." OCA St. 1 at 14 (citing CWC May Errata at 1-2 (Revised)).

OCA witness Rogers evaluated the Company's claim that all directly assigned costs related to EDMTA had been removed and determined that further adjustments should be made to account for overheads and costs not directly assigned. Based upon the Company's replies to discovery, Ms. Rogers identified at least three categories of expense that the Company affirmed provide benefits to all water service customers or relate to the provision of service to all customers. OCA St. 1 at 14-15 (Officers, Directors wage expense; Membership dues; Materials and Supplies). Yet, the Company had not assigned a portion of these expense categories to EDMTA. OCA St. 1 at 14-15. As Ms. Rogers concluded:

---

[12] www.puc.pa.gov/pcdocs/1266459.docx

> [t]hese examples reflect the broader principle that general operating costs of CWC benefit all customers, and the EDMTA division should therefore be responsible for a portion of these costs. The Company's revised rate case claim unreasonably burdens the Columbia and Marietta rate divisions with the responsibility for all of these general operating costs, where the May Errata only removed those costs which could be directly be assigned to the EDMTA division exclusively.

OCA St. 1 at 15.

OCA witness Rogers developed a recommendation to remove from the Company's cost of service elements of expenses for which the EDMTA rate district should be responsible. OCA St. 1 at 16-19; OCA Sch. JLR-15. First, Ms. Rogers developed allocation factors related to allocation of rate base, revenues, customers, all labor, and then an average allocator. OCA St. 1 at 16. In applying the factors, Ms. Rogers considered some particulars of the Company's adjusted expense claim for that category. *Id.* at 16-19. Ms. Rogers explained that she took a conservative approach and did not remove potentially shared costs from expense categories where CWC had already removed directly assigned expenses, i.e. employees, employee pensions and benefits, and general liability insurance. "I detailed the shared elements I expected existed in those categories and asked that the Company provide clarity in rebuttal on if the directly assigned expenses already incorporated and removed those shared cost elements." OCA St. 1SR at 17-18; OCA St. 1 at 18-19.

In response, CWC witness Shambaugh provided additional information regarding employees and associated pensions and benefits, which Ms. Rogers accepted as reason not to recommend a further adjustment in these categories beyond CWC's removal of certain directly assigned expenses. CWC St. 1R at 11-12; OCA St. 1SR at 18. On general liability insurance, Mr. Shambaugh was silent in rebuttal but, in rejoinder, repeated his general opposition to using allocation factors and argument that the Company already removed expenses that are specifically attributable to the EDTMA system. CWC St. 1RJ at 4-5. In surrebuttal, OCA witness Rogers reiterated why CWC's failure to adjust general liability expense is improper – because general liability insurance typically encompasses components for Officers and Director's liability, cybersecurity, etc., "costs that benefit all customers of the Company, including those in the EDTMA division, but have not been directly assigned to EDTMA as the benefits stem from being a part of the Company as a whole." OCA St. 1SR at 17, 18; OCA St. 1 at 19.

Ms. Rogers also responded to Mr. Shambaugh's recommendation in rebuttal to reduce each EDTMA adjustment by 25 percent to reflect that EDTMA was not acquired until three months into 2022. CWC St. 2R at 12-13. While the Company's primary position is that the Commission should make no adjustments to remove additional costs related to the EDMTA rate division, Company witness Shambaugh provided an alternative recommendation as to the amount of expense to be removed for each of the expense categories in the OCA's direct schedule. *Id.*; CWC 2RJ at 4. The sum of Mr. Shambaugh's alternative recommendation is $47,693. CWC St. 2R at 21; *see* OCA St. 1SR at 21 (*See* chart, *infra*, with combined "OCA Revised Proposed Allocation Amount" and "Company Proposed Allocation Amount"). Ms. Rogers agreed with Mr. Shambaugh's reasoning but not his calculation.

> Mr. Shambaugh has applied the 25 percent reduction to the full adjustment, not exclusively the 2022 historic test year portion. This incorrectly adjusts the portion of expense associated with the going-level adjustment, which reflects expected increased costs in 2023, a time period in which EDTMA was included in CWC for the entirety.

OCA St. 1SR at 20. Accordingly, Ms. Roger revised the calculation to apply a 25 percent reduction to only the 2022 historic portion of the FTY expense. With that correction, Mr. Shambaugh's proposed 25 reduction is included in Ms. Roger's EDTMA adjustment provided in her surrebuttal schedules and the rate case tables attached to this brief. OCA Sch. JLR-15 at 2; App. A, Table II, col. G, ln. 37.

The sum of Ms. Rogers' refined adjustments to remove expenses from 16 expense categories is $48,987, as shown in the chart below. OCA St. 1SR at 21; OCA Sch. JLR-15 SR at 2. Based upon the record, the Commission should adopt the OCA revised proposed allocation amount of $48,987, as spread among the individual expense categories, to assure that Columbia and Marietta rate customers are not burdened with costs related to EDMTA.

Account Description	EDTMA Allocation Percentage	OCA Original Proposed Allocation Amount	Company Proposed Allocation Amount	OCA Revised Proposed Allocation Amount
Officers, Directors & Majority Stockholders	4.94%	$1,854	$1,391	$1,359
Materials and Supplies	8.39%	$30,106	$22,580	$22,193
Accounting	8.39%	$2,994	$2,246	$2,287
Legal	8.39%	$2,600	$1,950	$2,027
Management Fees (Bank Charges)	8.39%	$10,837	$8,128	$8,128
Testing	8.39%	$2,586	$1,940	$1,939
General Liability	4.94%	-	-	$1,447
Workman's Compensation	4.94%	$73	$55	$73
Bad Debt Expense	6.33%	$747	$560	$582
Membership Dues	8.39%	$1,261	$946	$841
Stockholders Expenses	8.39%	$151	$113	$117
Uniforms	8.39%	$499	$374	$376
Director's Fees & Expenses	8.39%	$9,172	$6,879	$7,097
Mailing	6.33%	$342	$257	$257
Travel	8.39%	$41	$31	$31
Education	8.39%	$310	$233	$233
Total		**$63,573**	**$47,693**	**$48,987**

OCA St. 1SR at 21; App. A, Table II, col. G, ln. 37.

The Commission should adopt the OCA adjustments totaling $48,987, to assure that Columbia and Marietta rate district customers are not burdened with the inclusion of the

Company's indirect and general costs for which the Company made no adjustments. The OCA recommended removal of such costs is the necessary complement to the Company's removal of direct costs related to EDMTA service. The Company's criticisms of the allocation factors applied by OCA or other decisions made to quantify the amount of expense for removal by category should not be given weight. *See* CWC St. 2R at 10-13; CWC St. 2RJ at 3-6. The OCA adjustments were developed in response to the Company's failure to do more than remove direct costs. Indeed, in *CWC 2014*, the Commission directed CWC to provide allocation information in the future for officers, directors, and other personnel compensation expenses, in a similar circumstance. *CWC 2014* at 94. CWC has not met its burden to show that allocating only direct costs to EDMTA is just and reasonable for setting rates. Further, Ms. Rogers has demonstrated that her adjustments are both reasonable and conservative.

VII. TAXES

A. State Taxes

1. Rates Should Be Set Using the Actual, Known, Lower Pennsylvania Corporate Net Income Tax Rate.

The OCA and the Company are not in agreement as to the appropriate Pennsylvania Corporate Net Income Tax (CNIT) rate to apply to develop the Company's revenue requirement. The Company applied an 8.99% CNIT rate in its rate filing.

OCA witness Rogers recommended that the Company's revenue requirement be developed applying a CNIT rate of 8.49%. OCA St. 1 at 24. In support, Ms. Rogers noted that the Pennsylvania CNIT will decrease effective January 1, 2024 to 8.49%. Further, Ms. Rogers observed that the Company's rate filing suspension period extends to January 27, 2024 meaning that the rates determined in this proceeding will go into effect in late January 2024. Application of the then effective 8.49% CNIT rate is appropriate as that is the tax rate that will be in effect when the new water service rates go into effect. OCA St. 1 at 24. As such, Ms. Rogers found the Company's rebuttal position that the 8.99% CNIT rate should apply as the current effective rate unreasonable. OCA St. 1SR at 25; CWC St. 2R at 23. The rates set in this case will be in effect for the period beginning January 2024. While most costs for that period must be projected, the CNIT is known and certain. This is consistent with the ratemaking principle that data contained in the test year is designed to accurately reflect the operating condition of the utility for the period that rates will be in effect. *See, e.g., Pa. PUC v. Philadelphia Gas Works*, 2007 Pa. PUC LEXIS 46, *45.

The Commission should adopt the OCA recommendation and apply the 8.49% CNIT rate to calculate state tax expense for new water rates, based on the effective date of rates in late January 2024. OCA 1SR at 24-25; OCA Sch. JLR-16 SR; App. A, Table II, col. M, ln. 38.

B. Interest Synchronization

To determine the tax-deductible interest for ratemaking, OCA witness Rogers multiplied the OCA's recommended rate base by the weighted cost of debt included in the capital structure. OCA St. 1 at 25. As Ms. Rogers explained, "[t]his procedure synchronizes the interest deduction for tax purposes with the interest component of return on rate base to be recovered from ratepayers." OCA St. 1 at 25. Based upon this approach and with application of the prospective 8.49% CNIT rate, Ms. Rogers calculated an increase in state tax expense. OCA St. 1 at 25; OCA Sch. JLR-17. OCA witness Rogers updated the OCA interest synchronization adjustment in surrebuttal, with application of the prospective 8.49% CNIT rate, the Company's revised Interest Deduction value, as applied to the OCA adjusted rate base and use of the OCA weighted cost of debt. OCA St. 1SR at 27; OCA Sch. JLR-18 SR.

Company witness Shambaugh critiqued the OCA's interest synchronization adjustment. CWC St. 2R at 23. Based on Ms. Rogers' direct testimony, Mr. Shambaugh commented:

> Ordinarily, I would not disagree with Ms. Rogers' method of calculating interest expense based upon her recommended measures of value and weighted cost of debt for the Company. However, as I indicated above, the Company's claimed level of interest expense includes the interest expense associated with PENNVEST loans, which are not otherwise reflected in Ms. Roger's measures of value.

CWC St. 2R at 23. Mr. Shambaugh cited to Supporting Schedules 1 and 2 of Exhibit GDS No. 1R as showing the "interest expense associated with the payment of PENNVEST loans" in the calculation of the Company's state income tax. CWC St. 2R at 22.

In surrebuttal, Ms. Rogers did not change her interest synchronization approach, pending clarification from Mr. Shambaugh "of the issue he has with my interest synchronization adjustment." OCA St. 1SR at 26; OCA Sch. JLR-18 SR.

In rejoinder, Mr. Shambaugh provided support for his position that tax expense related to the PENNVEST revenue is not recovered in the PENNVEST surcharge. CWC St. 2RJ at 14-15 (citing to 52 Pa. Code § 69.361). Mr. Shambaugh reiterated that any interest expense deduction associated with the PENNVEST loans has already been reflected in the Company's filing. CWC St. 2RJ at 14; CWC St. 2R at 22.

For briefing, the OCA has accepted the Company's position regarding inclusion of the interest expense associated with the PENNVEST loans in the interest synchronization adjustment. The OCA interest synchronization method as modified is shown in Appendix A, Table III, column B, lines 17 to 19.

VIII. COST OF CAPITAL AND RATE OF RETURN

A. Introduction

The OCA disputes CWC's proposal for an overall rate of return of 8.28%, which includes a return on common equity of 11.25%, and a ratemaking capital structure of 36.66% long-term debt and 63.34% common equity. The Company bases its proposed capital structure ratios on what it estimates to be a 3.15% prospective embedded cost of long-term debt. CWC St. 4 at 3. This overstates the Company's current cost of common equity and overall return due to its proposed capital structure.

As discussed further below and in the testimony of OCA witness David J. Garrett, CWC's proposal to use its actual capital structure to set rates in this proceeding should be rejected. Use of the Company's equity-dominant, actual capital structure unreasonably increases revenue requirement for the benefit of shareholders at the sole expense of customers. OCA St. 2 at 6-8, 57-68; OCA St. 2SR at 7-11. For ratemaking purposes, the OCA recommends using a hypothetical capital structure of consisting of 49.4% debt and 50.6% equity to more reasonably balance the competing interests of shareholders and customers. I&E also recommends a hypothetical, very similar capital structure of 50% debt and 50% equity. I&E St. 1 at 27-29.

OCA witness Garrett has demonstrated that CWC's cost of equity is closer to 8.2% - 9.4% based on a range produced by the DCF Model (up to 9.4%) and the CAPM model (8.2%). OCA St. 2 at 4-8, 25-33, 35-45, Exh. DJG-2 to DJG-13; OCA St. 2SR at 2-9. Based on these findings by Mr. Garrett, the OCA considers a reasonable awarded return on equity to be 9.4% for CWC using Mr. Garrett's hypothetical capital structure, or 8.8% if CWC's equity-heavy capital structure is approved. OCA St. 2 at 4-8; OCA St. 2SR at 7-11. Award of either 9.4% or 8.8% ROE is very likely significantly higher than CWC's market-based cost of equity.

CWC has presented the testimony of Mr. Dylan W. D'Ascendis in support of its rate of return claims. Mr. D'Ascendis has obtained his data by using a proxy group (i.e. barometer group) of six water companies (D'Ascendis Proxy Group) to arrive at his numbers for CWC's equity cost rate. CWC St. 4 at 15; CWC Sch. DWD-2. The CWC Proxy Group consists of water companies that meet seven criteria, including their inclusion in the Water Utility Group of *Value Line's Standard Edition*. CWC St. 4 at 14-15.

Mr. D'Ascendis employed his data in the following three models: Discounted Cash Flow (DCF), Risk Premium Model (RP), and the Capital Asset Pricing Model (CAPM), to produce his recommended ROE of 11.25%. CWC St. 4 at 3. The PUC should reject or modify CWC's proposed cost of common equity. The Company errs by relying upon the RP and CAPM models, which are models subject to bias. This is one of the reasons why the Commission relies primarily upon the DCF method. Further, the DCF analysis performed by Mr. D'Ascendis is faulty due to the Company's flawed methodology and inclusion of erroneous additions.

Regarding capital structure, CWC's claim is summarized below:

Type of Capital	**Ratios (%)**	**Cost Rate (%)**	**Weighted Cost (%)**
Long-Term Debt	36.66	3.11	1.15
Common Equity	63.34	11.25	7.13
Total Capital	100.00		8.28

CWC St. 4 at 3.

The OCA's recommendation using Mr. Garrett's capital structure is summarized as follows:

Type of Capital	**Ratios (%)**	**Cost Rate (%)**	**Weighted Cost (%)**
Long-Term Debt	49.40	3.15	1.56
Common Equity	50.60	9.40	4.76
Total Capital	100.00		6.31

OCA St. 2 at 7; App. A, Table I(A).

In summary and as addressed below, the OCA submits that first, the Commission should reject or modify CWC's proposed capital structure, and second, the Commission should establish 9.4% as a more appropriate return on equity. If the Commission accepts CWC's capital structure, the Commission should adopt an 8.8% return on equity.

B. Legal Standards – Cost of Capital and Rate of Return

Cost of capital is generally accepted as a basis for determining a fair rate of return. *Pa. PUC v. Philadelphia Suburban Water Co.*, 71 PaPUC 593, 623 (1989) (*PSW 1989*). In the *PSW 1989* rate base case, the Commission has defined an appropriate rate of return as:

> [T]he amount of money a utility earns, over and above operating expenses, depreciation expense, and taxes, expressed as a percentage of the legally established net valuation of utility property, the rate base. Included in the "return" are interest on long-term debt, dividends on preferred stock, and earnings on common equity. In other words, the return is the money earned from operations which is available for distribution among the various classes of contributors of money capital.

PSW 1989 at 622-23 (quoting Paul J. Garfield & Wallace F. Lovejoy, *Public Utility Economics*, 116 (1964)). Further, "[t]he return authorized must not be confiscatory, and must be based upon the evidence presented." *PSW 1989* at 623 (citing *Pittsburgh v. Pa. PUC, 69 A.2d 844 (Pa. Super Ct. 1949*)).

As a general rule, a public utility, with facilities and assets dedicated to public service, is entitled to **no more than** a reasonable opportunity to earn a fair rate of return on its investment. The United States Supreme Court established the standard by which to evaluate what is a fair rate of return in *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923) (*Bluefield*):

> 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 at 693.

The *Bluefield* Court found that the allowed rate of return should reflect:

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

Bluefield at 692.

Twenty-one years later, the United States Supreme Court reviewed the issue of fair rate of return in *Federal Power Commission v. Hope Natural Gas Co.,* 320 U.S. 591 (1944) (*Hope*). In *Hope*, the Court held that a fair rate of return "should be commensurate with returns on investments in other enterprises having corresponding risks" while being sufficient "to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital." *Hope* at 603. The Court also noted, however, that:

> The rate-making process under the Act, i.e., the fixing of 'just and reasonable' rates, involves a balancing of the investor and consumer interests and does not insure that the business shall produce revenues."

Id. The Supreme Court added that consumers are obliged to rely upon regulatory commissions to protect them from excessive rates and charges. *See Permian Basin Area Rate Cases*, 390 U.S. 747, 794-95 (1968) (citing *Atlantic Refining Co. v. Public Serv. Comm'n,* 360 U.S. 378, 388 (1981)).

In 1989, the United States Supreme Court affirmed the Pennsylvania Supreme Court's holding that a Pennsylvania public utility is entitled to charge ratepayers a return of and on only that property currently used and useful in providing service to the public. *See Duquesne Light Co. v. Barasch,* 488 U.S. 299 (1989) (*Duquesne Light*), *affirming Barasch v. Pa. PUC,* 532 A.2d 325 (Pa. 1987). In *Duquesne Light*, the United States Supreme Court stated that "whether a particular rate is 'unjust' or 'unreasonable' will depend to some extent on what is a fair rate of return given the risks under a particular rate system, and on the amount of capital upon which the investors are entitled to earn on that return." *Duquesne Light* at 310.

This Commission itself has stated:

> A fair rate of return for a public utility, however, is not a matter which is to be determined by the application of a mathematical formula. It requires the exercise of informed judgment based upon an evaluation of the particular facts presented in each proceeding. There is no one precise answer to the question as to what constitutes the proper rate of return. The interests of the Company and its investors are to be considered along with those of the customers**, all to the end of assuring adequate service to the public at the least cost,** while at the same time maintaining the financial integrity of the utility.

Pa. PUC v. Pennsylvania Power Co., 55 PaPUC 552, 579 (1982) (emphasis added). *See Pa. PUC v. National Fuel Gas Dist. Corp.*, 73 PaPUC 552, 603-05 (1990).

The legal standards articulated in the *Bluefield* and *Hope* support two basic concepts summarized by OCA witness Garrett for determining a fair rate of return:

> 1. Risk is the most important factor when determining the awarded return. The awarded return should be commensurate with those on investments of corresponding risk. *Hope* at 603.

The public utility industry is one of the least risky industries in the entire country, which is confirmed by the cost of equity models in that they produce relatively low cost of equity results. As such, the awarded ROE in this case should reflect the fact that CWC is a relatively low-risk company. OCA St. 2 at 14.

> 2. The awarded return should be sufficient to assure financial soundness under efficient management. *Bluefield* at 693.

Mr. Garrett explained that awarded returns in the regulatory environment have not closely tracked market-based trends and commensurate risk, so that utility companies have been able to remain more than financially sound, perhaps despite management inefficiencies. OCA St. 3 at 14. "In fact, the transfer of wealth from ratepayers to shareholders has been so far removed from actual cost-based drivers that even under relatively inefficient management a utility could remain financially sound." *Id*. He concluded that regulatory commissions should strive to set the awarded return to a regulated utility at a level based on accurate market conditions to promote prudent and efficient management and minimize economic waste. *Id*.

Additionally, Pennsylvania regulators should consider the public interest in setting rates. If the Commission sets the allowed rate of return too high, higher than the true cost of capital, "it arguably results in an inappropriate transfer of wealth from ratepayers to shareholders." OCA St. 2 at 11.

C. Capital Structure

CWC proposes using a capital structure of 63.34% common equity and 36.66% long-term debt. CWC St. 4 at 3. The adoption of this capital structure would be unreasonable and inconsistent with the prevailing legal standards because the common equity ratio of CWC's requested capital structure is significantly higher than the average of the six regulated water utilities in the proxy group (49.4%). OCA St. 2 at 6. While a public utility may employ whatever mix of capital it wants, for purposes of setting rates, its capital structure – like all aspects of rates – must be reasonable and when it is not, it is appropriate for the Commission to impute a ratemaking capital structure. For his part, Mr. Garrett utilized the same proxy group as CWC witness D'Ascendis for determining a hypothetical capital structure and rate of return.

The use of the hypothetical capital structure is appropriate in cases like this one to reduce costs to ratepayers, as opposed to increasing costs. Pennsylvania courts have upheld the use of a hypothetical capital structure where the utility's management adopts an actual capital structure that imposes an unfair cost burden on ratepayers. *T.W. Phillips Gas and Oil Co. v. Pa. PUC*, 474 A.2d 355, 362 (Pa. Cmwlth. Ct. 1984); *Carnegie Natural Gas Co. v. Pa. PUC*, 433 A.2d 938 (Pa. Cmwlth. Ct. 1981) (*Carnegie*) (100% equity actual capital structure). The Commission has explained its rationale several times. It has stated:

> [T]he Commission has the duty to regulate utilities in a manner which provides customers with reliable service at reasonable cost. This is not to say that we may mandate to regulated utilities the proportions of debt and equity contained in their capital structures. Rather, the **actual capital structure is a matter within the discretion of corporate management; however, this does not preclude the commission from determining that a particular utility's capital structure is unreasonable or uneconomical when balancing the goals of safety, prudent management, and economy and utilize a hypothetical capital structure for rate- making purposes.**

Pa. PUC v. Carnegie Natural Gas Co., 54 PaPUC 381, 393 (1980) (emphasis added) *aff'd on appeal Carnegie* (*Carnegie Pa. PUC*). The underlying theme is an equitable one, in which the Commission and Pennsylvania courts do not allow the utility's financial interests to outweigh the public interest. *Pa. PUC v. Pennsylvania Gas and Water*, 424 A2d 1213, 1217 (Pa. 1980) (*PG&W*) (stating that such property must be regulated in the interest of the public no less than in the interest of the utility*); see also Arrowhead Pub. Serv. Corp. v. Pa. PUC*, 570, 600 A.2d 251, 257 (Pa. Cmwlth. Ct. 1991) (supporting the Commission's use of the utility's actual cost of debt where the cost is clearly identifiable).

In other words, a hypothetical capital structure may be used by the Commission where a utility's actual capital structure is unreasonable or uneconomical. *Big Run Tel. Co. v. Pa. PUC*, 449 A.2d 86, 89 (Pa. Cmwlth Ct. 1982) (*Big Run*), *following Carnegie* (Commission may utilize a hypothetical capital structure for the purpose of computing a reasonable interest expense where it finds that the actual income tax expense was unreasonable and should not be passed onto ratepayers). The Court in *Big Run* articulated the doctrine that a hypothetical capital structure is justified in the event actual capital structure is disproportionate, meaning, the actual capital structure "imposes an unfair tax burden on ratepayers." *Big Run* at 449.

For CWC, OCA witness Garrett recommends a hypothetical capital structure of 50.6% common equity and 49.4% long-term debt based upon the average of the companies in the proxy group which utilize common equity ratios between 39.9% and 58.7%. *See* CWC Exh. DJG-14. Mr. Garrett testified that a higher Weighted Average Cost of Capital (WACC) results in higher rates. *See* OCA St. 2 at 60. Thus, a utility is incentivized to increase its WACC. According to Mr. Garrett, "a commission standing in the place of competition must ensure that the regulated utility is operating at the lowest reasonable WACC." *Id*. By adopting Mr. Garrett's recommended capital structure, the Commission will ensure that wealth is not unfairly transferred from ratepayers to stockholders.

OCA witness Garrett testified that a 49.4% debt ratio is reasonable, citing more than 2,000 firms in the United States with higher debt ratios than 50%. OCA St. 2 at 62. The average of the proxy group utilized by Mr. D'Ascendis is 49.4%. CWC's proposed 36.66% debt ratio is well below that average and also the range of debt ratios of the proxy group (39.9% to 58.7%) *See* OCA Exh. DJG-14. Additionally, Mr. Garrett pointed out that there are several industries that are relatively comparable to public water utilities and all of them have much higher debt ratios than the one proposed by CWC. OCA St. 2 at 64. The Company's proposal of a 36.66% debt ratio is significantly lower than General Utilities (59%), Power (60%), Telecom (Wireless) (60%), and Cable TV (68%) industries. OCA St. 2 at 61.

If CWC is granted its proposed debt/equity ratio, the result will be "excessively high capital costs and utility rates" due to the simple fact that the cost of equity is much higher than the cost of debt. OCA St. 2 at 64. This is demonstrated by showing the impact on revenue requirement if the Company were to apply a 50/50 capital structure (I&E's recommendation) while maintaining its claimed return on equity and rate base. That single change represents **more**

than one-quarter (28%) of the Company's total requested revenue increase. *See* I&E St. 1 at 28-29 (the change in capital structure decreases overall rate of return by **1.07%**, which has a revenue requirement impact of $279,480). I&E and the OCA each recommend a ratemaking capital structure that controls costs to ratepayers and is much more representative of the regulated water utility industry and the proxy groups than CWC's proposal. *Id*. at 27-28.

In his rebuttal testimony, CWC witness D'Ascendis disagreed with Mr. Garrett's proposed capital structure, stating "If the Commission authorizes either of the Opposing Witnesses' hypothetical capital structures in this proceeding, the Company will have to raise significant amount of debt capital, increasing its business risk substantially in a time when interest rates are rising and access to capital is tightening." CWC St. 4R at 3. Mr. D'Ascendis misses the distinction between a utility's *actual* capital structure, which is fully within the discretion of utility management and *ratemaking* capital structure, which is determined by the Commission. No change is required to CWC's actual capital structure, the point is that the evidence shows that actual capital structure is not reasonable **for the purpose of ratemaking**. OCA St. 2SR at 9-10 (citing *Carnegie Pa. PUC*); *see also* I&E St. 1 at 28; I&E St. 1SR at 15.

Although the Commission approved a high equity to debt ratio based on CWC's actual capital structure for ratemaking purposes in the Company's 2008 and 2013 rate cases (CWC St. 4R at 3-4), here, the evidence provided by OCA witness Garrett and I&E witness Keller shows that CWC's proposal to use its actual capital structure would unreasonably increase costs to customers. As discussed above, CWC's proposal would increase overall rate of return by 1.07% or one-fourth of its claimed revenue requirement increase. *See* I&E St. 1 at 28-29.

Contrary to Mr. D'Ascendis assertion in his rebuttal and again in rejoinder, in declining to adopt a utility's actual capital structure for ratemaking purposes, it is not necessary for the

Commission to find that the utility management "abused its discretion." CWC St. 4R at 5-6; CWC St. 4RJ at 8-9. Rather the burden of proof is on the utility, which must show that each and every aspect of their rates are just and reasonable. 66 Pa. C.S. § 315(a); *PAWC 2004* at *16-18. Accordingly, as Mr. Garrett explained, an adjustment to either (1) ratemaking capital structure or (2) cost of equity must be made where a utility has less financial risk, regardless of whether a utility abused its discretion for purposes of its actual capital structure. He stated:

> The Commission must also account for the "technical and mathematical realities of using a utility proxy group to estimate the applicant utility's cost of equity. That is, if the applicant-utility has a lower debt ratio than the proxy group average, then technically, either its ratemaking capital structure or estimated cost of equity *must* be adjusted to account for the fact that it has less financial risk than the proxy group.

OCA St. 2SR at 10 (emphasis in original). Mr. D'Ascendis recognized that CWC's capital structure results in less financial risk relative to the proxy group and proposed a downward adjustment (of -0.11%) to his proposed ROE to account for this fact. CWC St. 4 at 4-5, 47-55. As Mr. Garrett calculated, however, the adjustment to ROE necessary to account for the discrepancy between CWC's equity-rich capital structure relative to the proxy group is actually much larger (-0.7%). OCA St. 2SR at 9. Regardless, the OCA maintains that the ratemaking adjustment for CWC's lower financial risk is properly reflected through an adjustment to capital structure rather than an ROE adjustment. OCA St. 2SR at 9. Specifically, the Commission should adopt a 9.4% ROE for CWC and a ratemaking capital structure of 49.4% debt and 50.6% equity. If the Commission does not adopt the OCA's capital structure recommendation, then the Commission should approve a much lower ROE than 9.4%. If CWC's capital structure is adopted, as discussed below, the OCA recommends an ROE of no more than 8.8%, to recognize that the results of the CAPM and other models indicate the DCF result is high, as well as to reflect the reduction in risk associated with CWC's equity rich capital structure. *Id*. at 10-11; OCA St. 2 at 7-8.

D. Cost Rate of Common Equity

1. Introduction

Regulators determine the proper cost of capital for a utility company. Although Pennsylvania has no law describing the specific model that must be used to establish a cost of capital, the Commission has consistently stated its preference for using the Discounted Cash Flow (DCF) model, which is the model employed by the OCA in this proceeding. *Pa. PUC v. Columbia Gas of Pa., Inc.*, R-2020-3018835, 131 (Order Feb. 19, 2021); *Pa. PUC v. Citizens' Elec. Co. of Lewisburg, PA*, R-2019-3008212, 91-93 (Order Apr. 27, 2020); *Pa. PUC v. Valley Energy, Inc.*, R-2019-3008209, 102-04 (Order Apr. 27, 2020); *Pa. PUC v. Wellsboro Elec. Co.*, R-2019-3008208, 80-82 (Order Apr. 29, 2020); *Pa. PUC v. UGI Util., Inc. – Elec. Div.*, R-2017-2640058, 91 (Order Oct. 25, 2018) (*UGI Elec 2018*); *Pa. PUC v. City of DuBois – Bureau of Water*, R-2016-2554150, 96-98 (Order Mar. 28, 2017).[13] CWC witness D'Ascendis advocated for the use of multiple models, stating in his rebuttal testimony, "the use of multiple models adds reliability to the estimation of the common equity cost rate, with the prudence of using multiple cost of common equity models supported in both the financial literature and regulatory precedent." CWC St. 4R at 22. OCA witness Garrett considered the results of the CAPM assessing the reasonableness of the DCF derived ROE calculation. OCA St. 2 at 15-16. He recognized that comparing results from multiple models can identify outlying results and inconsistencies. *Id.* at 16. That is not the case, however, where the models are flawed because

[13] Unpublished Orders are posted on the Commission's website at: www.puc.pa.gov/pcdocs/1693880.docx (Columbia Gas); www.puc.pa.gov/pcdocs/1661392.docx (Citizens); www.puc.pa.gov/pcdocs/1661708.docx (Valley); www.puc.pa.gov/pcdocs/1661445.docx (Wellsboro); www.puc.pa.gov/pcdocs/1591254.docx (UGI); www.puc.pa.gov/pcdocs/1514258.docx (DuBois).

key assumptions and inputs into the models violate accepted tenets in finance and valuation. As discussed below, it is clear that Company witness D'Ascendis's method of using many different models that have significant flaws does not ensure greater accuracy. Rather, it clutters the record with results that are clearly not reasonable.

2. Proxy Groups

There are advantages to comparing the utility to be analyzed to a proxy group of companies. OCA witness Garrett testified:

> First, it is better to assess the financial soundness of a utility by comparing it to a group of other financially sound utilities. Second, using a proxy group provides more reliability and confidence in the overall results because there is a larger sample size. Finally, the use of a proxy group is often a pure necessity when the target company is a subsidiary that is not publicly traded. This is because the financial models used to estimate the cost of equity require information from publicly traded firms, such as stock prices and dividends.

OCA St. 2 at 16.

Mr. Garrett chose to use the same proxy group as selected by CWC witness D'Ascendis. While different arguments could be raised for the exclusion or inclusion of a particular utility within the proxy group, by using the same proxy group, the OCA is removing selection of the proxy as a variable in analyzing rate of return. Using the same proxy group will assist in focusing on the primary factors driving the cost of equity estimate and demonstrate the unreasonableness of CWC's conclusions concerning rate of return. *See* OCA St. 2 at 16-17.

3. Discounted Cash Flow Analysis

a. Introduction

Mr. Garrett uses a Discounted Cash Flow (DCF) method that accounts for the growth of dividends. OCA St. 2 at 24. There are three primary inputs into the DCF model: (1) stock price; (2) dividend; and (3) the long-term grown rate. According to Mr. Garrett, "[t]he stock prices and dividends are known inputs based on recorded data, while the growth rate projection must be estimated." OCA St. 2 at 24.

b. Stock Price and Dividend

Mr. Garrett obtained the stock Price ("P") from the 30-day average of stock prices for each company in the proxy group. OCA St. 2 at 26, *see* OCA Exh. DJG-4. The 30-day average was computed based on the ticker from June 5, 2023 through July 18, 2023. OCA Exh. DJG-5. Mr. Garrett selected a 30-day average to avoid the possible volatility of a single day's stock price, stating that the 30-day period "represents a good balance between adhering to well-established principles of market efficiency while avoiding any unnecessary contentions that may arise from using a single stock price on a given day." OCA St. 2 at 26.

Mr. Garrett obtained the current quarterly dividend per share ("d_0") by using "forward-looking annualized dividends published by Yahoo! Finance for the dividend input to [his] constant growth DCF Model." OCA St. 2 at 26; *See* OCA Exh. DJG-5. Mr. Garrett testified, "Although my stock price and dividend inputs are more recent than those used by Mr. D'Ascendis, there is not a statically significant difference between them because utility stock prices and dividends are generally quite stable." OCA St. 2 at 26. Rather, the difference between Mr. D'Ascendis's and Mr. Garrett's application of the DCF model is in the difference in the growth rate estimates. OCA St. 2 at 29.

c. Dividend Growth Rate

According to Mr. Garrett, "[t]he DCF Model used in this case is based on the sustainable growth valuation model. Under this model, a stock is valued by the present value of its future cash flows in the form of dividends. Before future cash flows are discounted by the cost of equity, however, they must be "grown" into the future by a sustainable growth rate." OCA St. 2

at 27. The growth rate, unlike the stock price and the dividend, must be estimated. OCA St. 2 at 27. This model assumes that these dividends grow at a constant rate forever. *Id*. Because CWC would be considered to be in the sustainable, low growth stage of an industry's life cycle, Mr. Garrett testified "it is sufficient to analyze the cost of equity using a stable growth DCF Model with one sustainable growth rate." OCA St. 2 at 30.

No firm can grow forever at a higher rate than the growth rate of the economy. OCA St. 2 at 31; *see* Aswath Damodaran, *Investment Valuation: Tools and Techniques for Determining the Value of Any Asset*, 306 (3rd ed., John Wiley & Sons, Inc. 2012). Mr. Garrett testified, "it is reasonable to assume that a regulated utility would grow at a rate that is less than the U.S. economic growth rate." OCA St. 2 at 31.

Mr. Garrett considered two variations of the DCF model for his DCF Analysis: one using a sustainable growth rate, and one using analysts' growth rates. OCA St. 2 at 32. The sustainable growth rate DCF variation produced a cost of equity of 6.0%, and the analysts' growth rate DCF variation produced a cost of equity of 9.4%. OCA St. 2 at 32. Concerning the sustainable growth DCF variation, Mr. Garrett testified, "the result of the sustainable growth DCF Model is unreasonably low in terms of estimating cost of equity. Using the results of the CAPM as a check for reasonableness, it is clear that the results of this variation of the DCF Model is an outlier in this particular case." OCA St. 2 at 32.

Mr. Garrett testified that Mr. D'Ascendis's DCF Model produced a result that falls within Mr. Garrett's reasonable range for the authorized ROE. OCA St 3 at 33. However, when informed by an appropriate CAPM analysis, CWC's calculated base DCF result is likely higher than CWC cost of equity. *Id*. Mr. D'Ascendis's cost of equity results are inflated through the addition of several premiums (discussed below), which bloats Mr. D'Ascendis's recommended cost of equity. OCA St. 2 at 33.

4. CAPM Analysis

a. Introduction

The CAPM model is a "market-based model founded on the principle that investors expect higher returns for incurring additional risk." OCA St. 2 at 34; *see* William F. Sharpe, A Simplified Model for Portfolio Analysis 277–93 (Management Science IX 1963). The United States Supreme Court has held, "the amount of risk in the business is a most important factor" in determining the allowed rate of return. *Willcox v. Consolidated Gas. Co.*, 212 U.S. 19,48 (1909). The United States Supreme Court has also held that "the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks." *Hope* at 603. Recognizing that the Commission has historically primarily relied on the DCF, the OCA notes that Mr. Garrett's CAPM result supports the DCF result he calculated. Concerning the inputs of the CAPM model, OCA witness Garrett testified: "The basic CAPM equation requires only three inputs to estimate the cost of equity: (1) the risk-free rate; (2) the beta coefficient; and (3) the equity risk premium." OCA St. 2 at 34

OCA Witness Garrett estimated that CWC's CAPM cost of equity is 8.2% if imputing the average capital structure of the proxy group. OCA St. 2 at 43; *see* OCA Exh. DJG-12. Company witness Mr. D'Ascendis estimated the base CAPM cost of equity as 11.76%. *Id*. at 44. Mr. D'Ascendis arrives at this considerably higher result primarily from his estimate to the equity risk premium.

b. Risk-Free Rate

Mr. Garrett explained, "The risk-free rate is simply the level of return investors can achieve without assuming any risk. The risk-free rate represents the bare minimum return that any investor would require on a risky asset." OCA St. 2 at 35. Concerning the calculation of the risk-free rate, investors often use U.S. Treasury securities to represent the risk-free rate because they accept that those securities essentially contain no default risk. *Id*. Also, investors typically use long-term Treasury bonds rather than short-term Treasury bonds because common stock is viewed as a long-term investment. Short-term treasury bill yields "are subject to greater volatility and thus can lead to unreliable estimates." OCA St. 2 at 35. In calculating his risk-free rate estimate of 3.90%, Mr. Garrett considered a 30-day average of daily Treasury yield curve rates on 30-year Treasury bonds. *Id*.

c. Betas

Mr. Garrett testified, "beta represents the sensitivity of a given security to movements in the overall market." OCA St. 2 at 36. Betas greater than one are riskier than the market portfolio, while those less than one are less risky than the market portfolio. *Id*. Mr. Garrett used betas recently published Value Line Investment Survey betas. OCA St. 2 at 36. The beta for each proxy company is less than 1.0, and the average beta for the proxy group is only 0.84. This provides an objective measure of risk for utility stocks, showing that they are less risky than the average stock in the market. *Id*.

d. Equity Risk Premium

According to Mr. Garrett, the Equity Risk Premium (ERP) is the "required return on the market portfolio less the risk-free rate (R_M – R_F). In other words, the ERP is the level of return investors expect above the risk-free rate in exchange for investing in risky securities." OCA St. 2

at 37. The ERP is arguably both the single most important variable for making investment decisions and the most important factor in estimating the cost of capital. OCA St. 2 at 37. There are three methods that can be used to calculate the ERP: (1) calculating a historical average; (2) taking a survey of experts; and (3) calculating the implied ERP. OCA St. 2 at 37.

Because the historic ERP is a difference between returns on stocks and returns on government bonds in the past, using the historic ERP is unreasonable for calculating the CAPM: "what matters in the CAPM model is the current and forward-looking risk premium." OCA St. 2 at 38. Mr. Garrett demonstrated that the forward-looking ERP is lower than the historical ERP. OCA St. 2 at 38-39. Because of the limitations involved with using the historical ERP, Mr. Garrett did not use this approach for his CAPM analysis. OCA St. 2 at 39.

Instead, Mr. Garrett relied on expert surveys and the implied ERP methods for analyzing the CAPM for CWC. Mr. Garrett used the 2023 expert survey from the IESE Business School, which reported an average ERP of 5.7%. OCA St. 2 at 39. Mr. Garrett also collected data for the S&P 500 from the last six years to arrive at the implied equity risk premium of 5.4%. OCA St. 2 at 42. Mr. Garrett testified of two renowned experts who calculated the ERP at 4.9% (Mr. Damodaran) and 6.0% (Mr. Kroll). OCA St. 2 at 44. The average of survey and the three implied ERP calculations is 5.5%, the ERP that Mr. Garrett used in his CAPM Analysis. OCA St. 2 at 43.

e. <u>Mr. D'Ascendis's Erroneous CAPM Analysis Should Be Rejected as Unreasonable.</u>

According to Company witness Mr. D'Ascendis, his primary concerns with Mr. Garrett's CAPM model "are Mr. Garrett's selection of his MRP and that he does not employ the ECAPM." CWC St. 4R at 48. Mr. D'Ascendis faults Mr. Garrett's derivation of the market risk premium (MRP, which Mr. Garrett refers to as equity risk premium, or ERP). OCA St. 2SR at 2. As discussed above, Mr. Garrett uses four inputs to measure his ERP. Mr. D'Ascendis disputes the results of each of these methods. Mr. D'Ascendis disagrees with Mr. Garrett's rejection of the ECAPM analysis. OCA St. 2SR at 2.

Mr. Garrett testified that Mr. D'Ascendis's calculation of the ERP estimate is "clearly not within the range of reasonableness." OCA St. 2SR at 3. Mr. Garrett's four calculations – three of which are independently calculated by other, non-involved experts, all fall within a range between 4.9% and 6.0%. OCA St. 2 at 44. Mr. D'Ascendis's single erroneous calculation of ERP is over 10 standard deviations higher than the data relies upon by Mr. Garrett, which once again is informed by independent, non-involved experts. Simply put, on face value, Mr. D'Ascendis's calculation is facially unreasonable. Mr. Garrett testified:

> To put this discrepancy into perspective, if the Commission adopted all of Mr. D'Ascendis's inputs to the CAPM (i.e., betas and the risk free rate), but used the highest ERP estimate from the other sources presented in the graph above (i.e., Kroll's estimate of 6.0%) it would result in a CAPM cost of equity estimate of 8.6%. While I do not recommend this approach, it puts into perspective how much of an outlier Mr. D'Ascendis's ERP estimate is relative to others.

OCA St. 2SR at 3-4 (footnotes omitted). Mr. Garrett acknowledges that the ERP estimates he uses are not immune to criticism, as the ERP must be estimated. OCA St. 2SR at 4. While Mr. D'Ascendis critiques each of Mr. Garrett's methods for estimating the ERP, "Ultimately. . . Mr. D'Ascendis is asking the Commission to accept his ERP" over the "objective, reasonable, and unbiased" estimates published by expert sources. *Id*.

Mr. Garrett also showed the unreasonableness of Mr. D'Ascendis's use of the ECAPM, which effectively double-counts upward beta adjustments. OCA St. 2SR at 5. He explained:

> The premise of Mr. D'Ascendis's ECAPM is that the real CAPM underestimates the return required from low-beta securities. As discussed in my direct testimony, both Mr. D'Ascendis and I relied on betas published by Value Line. These betas are already adjusted to account for the concept that unadjusted, "raw" betas might be too low for low-beta stocks. Yet, Mr. D'Ascendis is essentially suggesting through his ECAPM that Value Line betas are incorrect and must be adjusted yet again to a higher level. This approach effectively results in a double counting of

upward beta adjustments, which is a good strategy if the goal is to make the end result higher.

Id. The Commission should reject Mr. D'Ascendis's calculation of CAPM as unreasonable, understanding that Mr. D'Ascendis's methods are simply designed to overstate CAPM results, and thus the return on equity.

5. Cost of Equity Adjustments

Mr. D'Ascendis claims that there should be upward adjustments to the cost of equity model results to account for business risks and a size premium. OCA St. 2 at 50. Mr. D'Ascendis proposes a slight negative adjustment due to lower risk associated with CWC's proposed equity-rich capital structure. *Id*. Mr. D'Ascendis also calculated the cost of equity of a group of non-utility companies. OCA St. 2 at 51; CWC St. 4 at 43-45; CWC Sch. DWD-7.

a. Business Risks

Mr. D'Ascendis opines on the general business risks faced by utilities, such as "size, the quality of management, the regulatory environment in which utilities operate, customer mix and concentration of customers, service territory growth, and capital intensity." CWC St. 4 at 8. Mr. Garrett testified that such firm-specific risks are unrewarded by the market. OCA St. 2 at 18-24, 51. "Scholars widely recognize the fact that market risk, or "systematic risk," is the only type of risk for which investors expect a return for bearing." OCA St. 2 at 51 (citing John R. Graham, Scott B. Smart & William L. Megginson, *Corporate Finance: Linking Theory to What Companies Do*, 180 (3rd ed., Sw. Cengage Learning 2010). Mr. D'Ascendis is incorrect in his analysis, and it should be rejected by the Commission. The business risks factors discussed by Mr. D'Ascendis are simply CWC's firm specific risks. OCA St. 2 at 51. Investors do not require additional compensation for assuming these firm-specific business risks. Moreover, Mr. Garrett explained that the financial models themselves do not include inputs for business risk. *Id*. No adjustment should be applied to the cost of equity results for these normal business risks.

b. Size Premium

Mr. D'Ascendis testified that CWC's size should increase the cost of equity estimate by 1.0%. OCA St. 2 at 52; CWC St. 4 at 65-70. At the outset, OCA witness Garrett faulted the Company's approach as arbitrary:

> Mr. D'Ascendis relies on data published by Kroll to calculate his size premium adjustment. However, Kroll does not directly publish a size premium for a particular company as I understand. Rather, it is Mr. D'Ascendis who has calculated a seemingly arbitrary premium of 1.0% in what appears to be an exercise designed to simply make the results of his ROE models even higher than what they already are.

OCA St. 2 at 52. Furthermore, "If Mr. D'Ascendis had been objectively consistent with his reliance on Kroll data, his CAPM cost of equity estimate would have been closer to 8.6%, which is significantly less than the 11.25% final ROE he calculated." OCA St. 2 at 52-53.

OCA witness Garrett also explained that "the 'size effect' phenomenon" arose in financial literature around 1981 based on a study by Rolf Banz. OCA St. 2 at 53, n.79. Yet not long after, market conditions changed, US small-cap funds actually underperformed relative to large cap stocks, effectively reversing the "size effect". *Id.* at 53. Mr. Garrett cited support for the proposition that the "size phenomenon" is dead and no adjustment to small cap stocks is warranted. *Id.* 53-56; OCA St. 2SR at 6.

Mr. Garrett also considered whether the Company's premise that small size premiums are a perceived incentive influencing the organization and relation of holding companies and utility subsidiaries. OCA St. 2 at 55. Mr. Garrett determined that the competitive market would not allow such small cap premiums to exist in terms of parent-subsidiary relationships. *Id. at* 55-56.

In rebuttal, Mr. D'Ascendis testified, "CWC's smaller size relative to the Utility Proxy Group companies indicates greater relative business risk for the Company because, all else being equal, size has a material bearing on risk." CWC St. 4R at 55. However, Mr. Garrett again pointed out that numerous studies conducted over the past few decades show there should be no size premium automatically applied to small cap stocks. OCA St. 2SR at 6. Further, Mr. Garrett explained:

> even if a small size premium were consistently observable in the market, I do not believe that would automatically apply to regulated utilities. To say otherwise would ignore the reality that regulated utilities do not face the same downside bankruptcy risk that a purely competitive firm would face. Essentially, operating utilities are too important to fail. In the event a utility faced financial hardship, the regulatory environment (i.e. customers, taxpayers, etc.) could not afford to let the utility fail. Thus, even though CWC is smaller than the companies in the proxy group, that does not mean it is inexorably riskier.

OCA St. 2SR at 6-7.

Mr. D'Ascendis acknowledged during the hearing that the Company's size or leverage based upon debt is different for ratemaking than as viewed by investors, due to the Company's use of PENNVEST-related debt. Tr. 99-101. CWC's PENNVEST debt "is outside and not included in the Company's capital structure for ratemaking." Tr. 100. As Mr. D'Ascendis explained, because the PENNVEST surcharge provides a flow of payment of debt and interest from ratepayers, investors would not care about that debt because CWC would not have to pull from operating cash to pay it. Tr. 99-101.

The OCA submits that Mr. D'Ascendis's PENNVEST discussion undermines his rebuttal statement that size matters as a business risk "all else being equal…." CWC St. 4R at 55. As OCA Garrett explained, regulated utilities are different and protected against financial hardships in some ways. OCA. St. 2SR at 6-7. Mr. D'Ascendis's acknowledgement of the PENNVEST debt and regulatory surcharge mechanism is such an example of a positive regulatory benefit from the viewpoint of investors.

The Commission should not apply any adjustment to the cost of equity model based on size and consideration of CWC's use of PENNVEST funds. First, Columbia rate district customers are already charged the PENNVEST surcharge and would in turn be charged the higher equity return adjusted for size. Second, the Company treats revenues received though the PENNVEST surcharge as subject to tax, an expense to be collected through the new base rates. CWC St. 2R at 22, 23; CWC Exh. GDS 2R, Supporting Schedule 1 and 2. As OCA witness Garrett explained, an adjustment for size for small cap firms is not generally supported in numerous studies. OCA St. 2SR at 6. Further, Mr. Garrett contested Mr. D'Ascendis's assumption that CWC's size is inexorably risker. Mr. D'Ascendis testified that during the evidentiary hearing that investors are able to look at the whole CWC and see a portion of the Company's debt as less risky. The Company has not proven that a small size adjustment will result in just and reasonable rates for the Company's Columbia and Marietta customers. Moreover, the Public Utility Commission has previously rejected size and leverage adjustments where their addition would be contrary to the public interest. *See, e.g.*, *UGI Elec 2018* at 100; *Aqua 2022* at 166-67.

E. The OCA's Cost of Capital Recommendations Conform with Applicable Legal Standards and Should Be Adopted for Setting Prospective Base Rates for CWC.

For ratemaking purposes, the Commission should adopt the capital structure ratio of 49.4% long-term debt and 50.6% common equity, as recommended by the OCA for the future test year and overall rate of return of 6.31%, based on Mr. Garrett's recommended 9.4% cost of equity (and adopting the Company's proposed cost of debt), to determine new prospective base rates for CWC. The OCA's cost of capital recommendation will properly provide the Company an opportunity to earn a fair rate of return while benefiting consumers with public service at reasonable rates, consistent with Pennsylvania law and public policy as set forth in the Public Utility Code. *See* 66 Pa. C.S. §§ 101, *et seq*.

Primary Rate of Return Recommendation

Capital Component	Proposed Ratio	Cost Rate	Weighted Cost
Long-Term Debt	49.40%	3.15%	1.56%
Common Equity	50.60%	9.40%	4.76%
Total	100.0%		6.31%

If the Commission does not adopt the OCA recommended capital structure (or the very similar ratio recommended by I&E), the Commission should approve a much lower ROE than 9.4%, to recognize that the results of the CAPM and other models indicate the DCF result is high. If the Commission adopts CWC's capital structure, the OCA recommends an ROE of no higher than 8.8%, which is the median result of Mr. Garrett's recommended ROE range. If the Commission adopts the Company's proposed low-risk capital structure, it *necessitates* the adopting of a lower ROE to offset the increased capital costs that would occur under the Company's capital structure. OCA St. 2 at 8.

Alternative Rate of Return Recommendation

Capital Component	Proposed Ratio	Cost Rate	Weighted Cost
Long-Term Debt	36.66%	3.15%	1.15%
Common Equity	63.34%	8.80%	5.57%
Total	100.0%		6.73%

IX. RATE STRUCTURE

The Company has proposed to unify the rates of the Columbia and Marietta rate districts in this proceeding, with increases to the customer charges and adjustments to the volumetric charges. OCA witness Jerome D. Mierzwa examined the Company's cost of service study and rate design proposals. Mr. Mierzwa generally accepted the Company's use of the base-extra capacity methodology and functionalization of some costs. OCA St. 3 at 6. However, Mr. Mierzwa identified that the Company's proposed customer charges are unreasonable because they are designed to provide for recovery of more than direct customer related costs and more than a proper share of Public Fire costs. OCA St. 3 at 6-10; OCA St. 3R at 1-2; OCA St. 3SR at 4-5.[14] Mr. Mierzwa's recommended customer charges match direct costs with fixed charge recovery, at the Company's filed-for revenue increase.[15] For volumetric rates, Mr. Mierzwa accepted CWC's proposal to reduce the existing differential between the three tiers of volumetric rates, by adjusting those rates proportionally to make up the revenue not collected through the customer charge. OCA St. 3 at 8, 10; OCA St. 3SR at 7. Because the OCA does not recommend that the Company's filed-for revenue requirement should be adopted, Mr. Mierzwa also proposed a scale back that would apply the revenue reduction proportionately to his recommended customer charges and resulting volumetric charges. OCA St. 3R at 4; OCA St. 3SR at 4, 7-9. His adjustments are reasonable under the circumstances of the Company's existing rates, cost of service study, and revised revenue requirement.

[14] All citations to OCA Statement 3SR and OCA Schedules JDM-1 Surrebuttal and JDM-2 Surrebuttal refer to the errata version filed with the Commission on September 7, 2023. Tables A through C attached to this Brief (Appendix B hereto) are also consistent with the errata version of the OCA's Surrebuttal and schedules.

[15] As discussed below, Mr. Mierzwa also offered an alternative customer charge calculation at the Company's proposed rates, if the Commission disagrees with his recommendation to exclude indirect costs in the calculation of customer charges. OCA St. 3 at 9-10; OCA St. 3R at 9-10; OCA St. 3SR at 4-5.

The OCA has developed its principled recommendations as to the appropriate customer charge and volumetric rates for the Company's three consumption tiers, and scale back recommendation against a backdrop of changes in the parameters of the Company's base rate request. The Company's original rate filing included proposed rates based in part on costs related to serving the EDTMA rate district. CWC St. 3 at 3-4. The Company revised its cost of service study and proposed rates in direct, to account for removal of certain EDTMA costs from the Company's ratemaking claim. *Id*. In rebuttal, Company witness Fox "updated the revenue requirements used as a basis for allocation and rate design." CWC St. 3R at 5. In rejoinder, Company witness Fox revised the proposed customer charges upward, to reflect his preferred percentage for allocation of Transmission and Distribution operating and maintenance (O&M) expense between customer costs and other cost functions. CWC St. 3RJ at 1-2; *compare* CWC Exh. DF-2R at 1; CWC Exh. DF-2RJ at 1.

The modifications by the Company to its revenue requirement, cost of service study, and rate design proposal should not distract from the critical issue of establishing unified customer charges and volumetric rates for the Columbia and Marietta rate district customers which are cost-based and reflect sound rate design principles, based upon the information available and the Company's existing rate design which involves consumption tiers without class allocations.

A. <u>Cost of Service</u>

1. <u>The Company's Chosen Cost of Service Methodology Is Generally Acceptable.</u>

As OCA witness Mierzwa noted, the Company presented a cost of service study based upon the base-extra capacity method. OCA St. 3 at 3, 4-6. The Company's rate design includes unification of rates for the Columbia rate district and Marietta rate district. *Id*. at 6. The Company's present rates for the Columbia and Marietta rate districts are comprised of customer charges that vary by meter size and volumetric usage charges that vary by consumption block. The Company's present rates for the separate rate districts and proposed rates on a unified basis do not distinguish directly by rate class. CWC's cost of service study also does not allocate costs to individual customer classes. OCA St. 3 at 4. The study separately determined the cost of providing Public and Private Fire Protection Service. *Id*.

As OCA witness Mierzwa explained, the base-extra capacity cost of service methodology employed by the Company is recognized by the American Water Works Association (AWWA) Manual, M1, Principles of Water Rates, Fees, and Charges. OCA St. 3 at 4. Under the base-extra capacity method, investment and costs are classified into four primary functional cost categories: base or average capacity, extra capacity, customer, and fire protection. Once costs are classified by functional categories, they are assigned to either retail sales usage, fire protection service, or customer charges. *Id*. at 4-5.

Under the base-extra capacity method, Mr. Mierzwa described the four categories:

> **Base or Average Costs** are costs that tend to vary with the quantity of water used, plus costs associated with supplying, treating, pumping, and distributing water to customers under average load conditions.
>
> **Extra Capacity Costs** are costs associated with meeting usage requirement in excess or base or average usage. This includes operating and capital costs for additional plan and system capacity beyond that required for average usage. Extra capacity costs in the company's study have been subdivided into costs necessary to meet maximum day extra demand and maximum hour demand. Extra capacity costs related to fire protection service are allocated directly to the fire protection classifications.
>
> **Customer Costs** are costs associated with serving customers regardless of their usage or demand characteristics. Customer costs include the operating costs related to meters and services, meter reading costs, and billing and collection costs.
>
> **Fire Protection Costs** are costs associated with providing the facilities to meet the potential peak demand of fire protection service.

OCA St. 3 at 5. The OCA agrees that the base-extra capacity cost of service methodology is a reasonable starting point for development of unified rates for the Columbia and Marietta rate districts at the Company's as-filed for increase. OCA St. 3 at 3; OCA St. 3SR at 7.

OCA witness Mierzwa recognized, however, that a cost of service study is but one consideration in development of a reasonable rate design. OCA St. 3 at 7 (citing James C. Bonbright et al., *Principles of Public Utility Rates* (2nd ed. 1988) (*Bonbright*)). As discussed further below, CWC's study claims to develop cost-based customer charges applicable to all retail customers; however, the OCA does not agree with the Company's functionalization of certain costs in its cost of service study as being customer-related. OCA St. 3 at 6.

B. Revenue Allocation

In this proceeding, CWC has proposed to consolidate the rates for its Columbia and Marietta rate districts. CWC St. 3 at 2. Existing rates in the Marietta rate district are lower and, if rates are unified, at the as-filed revenue increase, those customers would experience a greater increase in rates than customers in the Columbia rate district. As a term of settlement of the Company's last base rate case where rates were moved toward consolidation, but not fully, CWC was required to submit a cost of service study in conjunction with a future proposal to fully consolidate rates. CWC St. 1 at 3, 13. As noted above, the cost of service study that CWC submitted in this case does not allocate costs to individual customer classes. OCA St. 3 at 4.

The Company's current and proposed volumetric rates are divided among three tiers or consumption blocks and those same rates and blocks apply to all general metered service customers, regardless of class. OCA St. 3SR at 6; Tr. 78. As OCA witness Mierzwa explained, there is some correlation between the rate blocks and classes, in that based on the demand factors the Company used in its cost of service study, most residential customers are in Tier one, most commercial customers are in Tier two, and most industrial customers are in Tier Three. Tr. 80. Thus, while the development of volumetric rates is a rate design matter, it has implications for the allocation of revenue requirement between the classes and is discussed here as a "Revenue Allocation" issue.

1. <u>The Commission Should Adopt the Company's Allocation Proposal for Volumetric Rates at the Company's As-Filed For Request.</u>

As stated above, the Company's current rates for the Columbia rate district and Marietta rate district include three consumption blocks or tiers. To illustrate, the Company's current volumetric usage rates for the Columbia rate district, which includes approximately 90% of the customers subject to the Company's proposed base rate increase are:

Tier	Usage Block	Rate
1	First 10,000 gallons	$7.20
2	Next 240,00 gallons	$2.77
3	Over 250,000 gallons	$1.95

OCA St. 3SR at 6.

Company witness Fox proposed to unify and increase the existing consumption blocks for the Columbia and Marietta rate districts to provide usage-based revenues at the Company's as-filed for request. CWC St. 3 at 12. The Company's final proposed volumetric rates for the three tiers, on a unified basis, are set forth in CWC witness Fox's rejoinder testimony. Based on Mr. Fox's rejoinder, the Tier 1 usage block would increase to $7.22, Tier 2 would be $3.29, and Tier 3 would be $2.84. CWC Exh. DF-9Rej at 1-2. This proposal modifies (reduces) the differentials that exist between Tier 1 and Tiers 2 and 3 for the Company's current rates.

OCA witness Mierzwa favored Company witness Fox's approach over the OSBA proposal to assign a uniform percentage rate increase. OCA St. 3R at 4; OCA St. 3SR at 5-9. Mr. Mierzwa recognized that more granular and detailed data such as monthly usage by block rate was not available in this case, to then be used with AWWA Manual demand factors in developing volumetric rates. Tr. 79, li. 8-22. Mr. Fox and Mr. Mierzwa agreed, however, that the existing Tier 2 and 3 rates for the Columbia rate district were deeply discounted relative to Tier 1. OCA St. 3SR at 6-7. Mr. Mierzwa found that the ratios applied by Mr. Fox to Tier 1 (most residential customers), Tier 2 (most commercial customers), and Tier 3 (most industrials) were not unreasonable, when compared with the AWWA Manual typical maximum hour factors. Tr. 80, li. 9-23.

OSBA witness Kalcic opposed changing the existing rate differentials on the basis that CWC did not provide a traditional class cost of service study in this case and, as such, there was "no cost justification for assigning anything other than uniform increases to such classes in this proceeding." OSBA St. 1S at 5; Tr. 79, ln. 12 - 80, ln. 17. However, because there is no evidence to show that the *existing* differentials between the Tiers have any cost justification and because the existing differentials are significant,[16] Mr. Fox's proposal to reduce their severity is reasonable. OCA St. 3SR at 6.

Further, based upon the specifics of this case, Mr. Mierzwa took note of the Company's position that increasing the higher volume tiers at a larger percentage increase would provide a stronger pricing signal to promote conservation. *Id.* at 7. Customer conservation may provide a benefit of delaying, reducing or avoiding the costs of capital improvement projects. OCA St. 1 at 11. Mr. Mierzwa also showed that CWC's proposed ratios are more in line with the ratios in effect for other two other water utilities that do have class cost of service studies to support their rate design. OCA St. 3SR at 8-9; OCA Sch. JDM-3 at 1-3; *see also* Tr. 81, ln. 19-22. Mr.

[16] The Tier 1 volumetric charge is more than 2.5 times the current Tier 2 volumetric charge and 3.75 times more than the current Tier 3 volumetric charge in the Columbia division. OCA St. 3SR at 8.

Mierzwa considered the rate differential between CWC's proposed volumetric usage charge for Tier 1 to Tier 2 and then Tier 1 to Tier 3.

For all of these reasons, Mr. Mierzwa concluded that apart from the OCA different position on the appropriate customer charge and the resultant need to increase the revenues to be recovered through volumetric rates, it is reasonable to rely upon Mr. Fox's cost of service analyses presented in rebuttal to determine the volumetric usage charges at the Company's filed-for revenue increase. OCA St. 3SR at 7.

C. Tariff Structure

As stated above, the Company has proposed to consolidate the rates paid by Columbia and Marietta rate district customers. The OCA does not oppose the Company's concept but, like I&E and OSBA, opposed the Company's proposed customer charge levels and recommends customer charges that are lower than under CWC's proposal. OCA St. 3 at 8-11; OCA St. 3SR at 2-5; OCA Sch. JDM-1SR; OCA Sch. JDM-2SR.

Under the Company's proposed rates, the Columbia and Marietta rate district customers would experience increases in the fixed monthly customer charge for 5/8-inch meter service of 43.5 and 80.4%. CWC Exh. DF-9RJ at 1. The Company's proposed customer charge would provide recovery through a fixed charge of a range of costs such as building rental expense and overheads that do not vary directly with the number of customers connected. OCA St. 1 at 7-8. CWC's proposed volumetric rates use the Company's existing consumption blocks as a starting point, with differing increases by tier or consumption block. OCA St. 3SR at 6-7.

The Commission should adopt the OCA primary customer charge recommendation and assign the revenue differential to the Company's three-tiered volumetric blocks using the Company's proposed allocation method for increasing consumption blocks at the Company as-filed for rate request. The OCA's alternative customer charge recommendation and OCA proposed revenue allocation at a lower approved revenue increase are also described below.

To be clear, the dispute regarding what level of costs should be recovered through the customer charge does not deny CWC recovery of the costs through proposed rates, at the Company's as-filed for request.[17] OCA St. 3R at 4. Rather, OCA witness Mierzwa focused on assuring that the Company's customer charge does not provide too much or too little recovery of customer-related costs of service, as the Company may gain or lose a customer. As the Commission has cautioned, claims for inclusion of indirect costs that may have been allowed in another rate proceeding, "will be subject to scrutiny on a case-by-case basis." *Pa. PUC v. Philadelphia Suburban Water Co.*, R-00038805, 72 (Order Aug. 5, 2004).[18] The burden lies with the Company to prove the just and reasonableness of its proposed rates.

1. <u>Comparison of the Parties' Proposed Customer Charges Support the Reasonableness of the OCA's Recommended Increases.</u>

The Company's proposed monthly customer charge for a 5/8-inch meter, as corrected in Mr. Fox's rejoinder, and the OCA primary recommendation and OCA alternative customer charge recommendation are set forth in the chart below. While the Company's proposed increases in the customer charge for a Columbia rate district customer and Marietta rate district customer are lower than the Company's original rate filing,[19] these reductions reflect the Company's own removal of some costs from the customer-related function. CWC St. 3R at 9. As discussed in the sections below, the OCA's primary customer charge recommendation is based upon cost of service principles and consideration of other sound principles of rate design. OCA

[17] "My reduced customer charges at the Company's filed-for revenue increase would require increases in the Company's proposed volumetric rates." OCA St. 3R at 4.

[18] www.puc.pa.gov/PcDocs/488488.doc

[19] In direct, CWC proposed to increase the Columbia rate district customer charge for a 5/8-inch meter to $15.29, a 48.3% increase and the comparable Marietta rate district charge to $15.29, an 86.5% increase. OCA St. 1 at 6-7, 10.

witness Mierzwa developed an alternative recommendation, in the event that the Commission determines that some element of indirect costs may be recovered through the customer charge. OCA St. 3 at 9-10.

	CWC Proposed - Rejoinder Monthly Customer Charge			
Rate District	Current	Proposed	$ Increase	% Increase
Columbia[20]	$10.31	$14.79	$4.48	43.5%
Marietta[21]	$8.20	$14.79	$6.59	80.4%

	OCA Recommended Monthly Customer Charge[22]			
Rate District	Current	OCA	$ Increase	% Increase
Columbia	$10.31	$12.45	$2.14	20.8%
Marietta	$8.20	$12.45	$4.25	51.8%

	OCA Alternative Monthly Customer Charge[23]			
Rate District	Current	Adjusted	$ Increase	% Increase
Columbia	$10.31	$13.56	$3.25	31.5%
Marietta	$8.20	$13.56	$5.36	65.4%

I&E's recommended customer charges closely align with the OCA's primary recommendation (18.2% for Columbia and 48.7% for Marietta).[24] OSBA's recommended customer charges are close to the OCA's alternative recommendation (34.6% for Columbia and 69.3% for Marietta).[25] These comparisons support the reasonableness of the OCA's position and underscore that CWC's proposal to raise customer charges by **43.5%** for Columbia rate division customers and by **80.4%** for Marietta rate division customers is unreasonably high. For the cost of service-

[20] CWC Exh. DF-9RJ at 1.

[21] CWC Exh. DF-9RJ at 1.

[22] OCA St. 3SR at 5; OCA Sch. JDM-1 Surrebuttal.

[23] OCA St. 3SR at 5; OCA Sch. JDM-2 Surrebuttal.

[24] I&E Exh. 2SR, Sch. 2, col. G, N.

[25] OSBA Sch. BK-4S.

based reasons, including the need for gradualism, that are discussed in the following sections, the OCA's customer charges should be adopted.

2. <u>The OCA Customer Charge Recommendation Is Cost-Based and Moderates the Increase in Fixed Monthly Charges for Columbia and Marietta Customers.</u>

OCA witness Mierzwa's primary recommended customer charge for a 5/8" meter service is $12.45 per month for Columbia and Marietta rate district customers, based upon the Company's revised allocations of costs to the customer-related function and inclusive of Public Fire costs. OCA St. 3SR at 2, 4; OCA Sch. JDM-1SR. Mr. Mierzwa's recommended monthly customer charge for each size meter is set forth in Schedule JDM-1 Surrebuttal. As noted above, CWC proposes to increase the same charge to $14.79 per month. CWC Exh. DF-9RJ at 1.

The Company's analysis includes numerous overhead costs that cannot reasonably be considered "direct costs" required to connect and maintain a customer's account. OCA St. 3 at 8; OCA St. 3SR at 3. Rather, they are simply overhead costs that CWC incurs in rendering service to its customers. The fact that some of these costs may be fixed, does not in and of itself make them direct costs that should be collected from a customer charge. Rather, the appropriate test is "whether the costs would increase with the addition of a customer and decrease with the subtraction of a customer." OCA St. 3SR at 3; *see Pa. PUC v. PPL Gas Util. Corp.*, R-00061398, 137 (Order Feb. 8, 2007);[26] *Pa. PUC v. PPL Elec. Util. Corp.*, 2004 Pa. PUC LEXIS 40, *82-84; *Pa. PUC v. National Fuel Gas Dist. Corp.*, 83 Pa. PUC 262, 371 (1994); *Pa. PUC v. Metropolitan Edison Co.*, 60 Pa. PUC 349 (1985); *Pa. PUC v. West Penn Power Co.*, 59 Pa. PUC 552 (1985); *Pa. PUC v. West Penn Power Co.*, 1994 Pa. PUC LEXIS 144, *154. By this cost functional standard, Mr. Mierzwa disagreed with the Company's inclusion of indirect costs such as general and administrative expenses, building rental costs, and office furniture and

[26] www.puc.pa.gov/pcdocs/1368224.pdf

equipment costs in customer charges. OCA St. 3SR at 3; OCA St. 3 at 8. The Company also improperly included $11,800 in bad debt expense, even though these costs do not vary directly or indirectly with the addition or subtraction of a customer. OCA St. 3 at 9.

Also, OCA witness Mierzwa adopted the OSBA position that the percentage of Transmissions and Mains operating expenses (O&M) appropriate for allocation to the customer charge as customer-related should be 15.7% and not the 30% allocator applied by CWC witness Fox. OCA St. 3R at 1-2. Mr. Mierzwa approved of OSBA's allocator, as based upon the ratio of CWC's total meters and services plant investment to CWC's Transmission and Distribution Plant in service. OCA St. 3SR at 1-2. This amount of allocated Transmissions and Mains O&M expense is better supported than the Company's position that a 30% allocator is "reasonable" based on Mr. Fox's professional judgment. OCA St. 3SR at 3; *see also* OSBA St.1 at 8-9; OSBA Exh. BK-1 1R (CWC reply to OSBA-III-2a). Indeed, I&E witness Sakaya would allow even less recovery of Transmission and Distribution O&M expense through the customer charge, based on the Company's inadequate support for its allocation. I&E St. 2SR at 7-8. Mr. Mierzwa's recommended customer charge removed these indirect costs and other costs improperly included by the Company, and . OCA St. 3 at 8.

CWC claims that its broad inclusion of indirect costs in its customer charge analysis was approved in a recent rate case involving Aqua Pennsylvania, Inc. CWC St. 3R at 8-9. Review of the referenced case shows that the Commission accepted Aqua's customer cost analysis but did not adopt its proposed customer charges. Rather, the Commission adopted I&E's customer charges which were not cost based. *Pa. PUC v. Aqua Pennsylvania, Inc.*, R-2021-3027385, 252, 268-69 (Order May 16, 2022) (*Aqua 2022*).[27] They were based on other factors particular to that case: adjustments to subsidies, bringing lower wastewater customer charges to the level of

[27] www.puc.pa.gov/pcdocs/1744354.pdf

existing, higher customer charges in other divisions, fairness and simplicity. *Id*. The OCA maintains that, as the Commission has previously stated, claims to include indirect costs in the customer charge should be subject to scrutiny on a case-by-case basis. *Pa. PUC v. Philadelphia Suburban Water Co.*, R-00038805, 72 (Order Aug. 5, 2004). Here, the OCA and I&E agree that CWC's customer cost analysis improperly includes indirect costs and results in artificially and unreasonably high customer charges. I&E St. 3SR at 3-4, 8-10.

Consistent with this position, Mr. Mierzwa's customer service charges were calculated to recover direct costs required to connect and maintain a customer's account, such as metering, service line, and billing costs. OCA St. 3 at 8. In addition, OCA witness Mierzwa acknowledged that Section 1328(b) of the Public Utility Code limits Public Fire protection rates to 25% of the cost of service. OCA St. 3 at 7; 66 Pa. C.S. § 1328(b). To recover the other 75% of Public Fire cost of service, the Company proposed recovery through customer charge increases. OCA St. 3 at 7; *see* CWC St. 3 at 3. OCA witness Mierzwa has not opposed the Company's election of recovery of those costs through the customer charge. However, Mr. Mierzwa did identify the Company's original Public Fire recovery claim exceeded the 75% share and was overstated due to the Company's inclusion of "an arbitrary allocation volumetric usage costs of $114,935 in the proposed customer charges…." OCA St. 3 at 7-8, 9. OSBA witness Kalcic also removed this $114,935 amount from the Company's customer charge claim. OSBA St. 1 at 9-10. Company witness Fox withdrew the $114,935 allocation of usage costs from the Company's proposed customer charges in rebuttal. CWC St. 3R at 10. OCA witness Mierzwa's recommended customer charge of $12.45 for a customer with a 5/8-inch meter reflects the appropriate amount of Public Fire costs including direct hydrant costs. OCA St. 3SR at 4.

The monthly customer charge of $12.45 recommended by OCA witness Mierzwa for customers served by a 5/8-inch meter is supported by cost of service principles, while designed to recover only direct customer related costs as well as no more than the 75% revenue deficiency for Public Fire costs, upon consideration of Section 1328(b).

Even so, for the Columbia rate district customer, this would represent a monthly increase in fixed charges of $1.83, a 17.7% increase. For Marietta rate district customers, the impact is more significant at $3.94 more per month in fixed charges, a 48.0% increase. Two principles of sound rate design as described by *Bonbright* and summarized by Mr. Mierzwa include use of a class cost of service study as a guide and design that provide stability and predictability of the rates themselves, with a minimum of unexpected changes seriously adverse to ratepayers or the utility (gradualism). OCA St. 3 at 7 (summarizing four rate design principles based upon *Bonbright*). In direct, Mr. Mierzwa expressed concern for the impact of the Company's original proposed customer charge increase, at the Company's original revenue requirement, on Marietta residential customers as well as low-volume customers.[28]

The OCA recommended customer charge provides for fixed charge recovery of an appropriate level of customer-related revenues and Public Fire revenues, while moderating the percentage increase in the monthly fixed customer charge for Columbia and Marietta rate district customers under unified rates at the Company's as-filed for revenue request. Moreover, the OCA's recommended customer charge is in line with the customer charge recommended by I&E witness Sakaya, which is $12.19 per month for a 5/8-inch meter.[29] I&E Exh. 2SR, Sch. 1 at 3.

---

[28] OCA St. 3 at 11.

[29] I&E's determination of cost to serve larger meter sizes is shown on I&E Exhibit 2SR, Schedule 1, page 3.

3. The Customer Charge for Columbia and Marietta Customers Should Be No Higher Than the OCA Alternative Customer Charge.

Mr. Mierzwa developed an alternative recommendation, to address the possible inclusion by the Commission of some indirect costs as customer-related and allowable for recovery through the customer charge. OCA St. 3 at 9-10. Mr. Mierzwa continued to oppose inclusion of $11,800 in bad debt expense in the customer charge, as the cost does not vary directly or even indirectly with the addition or subtraction of a customer. *Id*. at 8, 9.

Additionally, Mr. Mierzwa stated that an alternative customer charge should still exclude the increment of Transmission and Distribution O&M costs allocated by the Company in excess of the 15.7% allocator supported by OSBA and adopted by Mr. Mierzwa in rebuttal. OCA St. 3R at 1-2; OCA St. 3SR at 3-4. Whether and how much of the Company's total Transmission and Distribution O&M costs should be included in the customer charge is consequential. According to CWC witness Fox's rejoinder, the proposed $13.88 monthly customer charge for 5/8-inch meter service presented in Mr. Fox's rebuttal was erroneously based upon the 15.7% allocator.[30] CWC St. 3-RJ at 1-2. Mr. Fox presented a correct cost of service study and exhibits in rejoinder, to reflect his recommended 30% allocator. After this single correction, the Company's final revised and corrected customer charge is $14.79. CWC St. 3-RJ at 1-2.

If the Commission allows inclusion of some indirect costs, the Commission should approve a customer charge no higher than Mr. Mierzwa's alternative recommendation of $13.56 per month for 5/8-inch meter service and other size meters as set forth OCA St. 3S, Schedule JDM-2 Surrebuttal. OCA St. 3SR at 4.

---

[30] *See* OCA St. 3SR at 4-5, Chart comparing the Company's Proposed Monthly Customer in rebuttal with OCA Proposed Monthly Customer Charge, in surrebuttal.

4. The Company's Proposed Customer Charges and Volumetric Charge at the Company's Full Revenue Request Must Be Scaled Back at a Commission-Approved Lower Revenue Increase

As reflected in the record and argued in this brief, the Company's requested annual revenue increase of $999,900 is not supported and only a lesser increase in base rate revenues should be allowed to take effect. Specifically, the highest revenue increase that can reasonably be supported by the record evidence is $657,819. To account for that lower level of revenue increase, the Company's customer and volumetric rates must be scaled back. OCA witness Mierzwa's first recommendation is that the level of customer charge recommended by OCA "be proportionately scaled back to reflect the reduced revenue increase." OCA St. 3 at 8. Mr. Mierzwa recommends this first scale back step, whether the Commission adopts the OCA's primary customer charge recommendation or alternative recommendation. *Id*. at 8, 10.

Corresponding to the Commission's adoption of the either of the OCA primary or alternative customer charge recommendation, Mr. Mierzwa noted that at the Company's as-filed for revenue increase, an amount of revenues would be shifted to usage-based rates on a proportional basis. OCA St. 3R at 4. At a lesser allowed revenue increase, Mr. Mierzwa explained "the customer charges and volumetric rates determined in the first step should be proportionately scaled back to account for the reduction in CWC's revenue increase." OCA St. 3R at 5.

Mr. Mierzwa described his scale back recommendation for another scenario, in the event that the Commission adopts the OSBA position that usage rates corresponding to customer classes should be assigned a uniform percentage increase. OCA St. 3R at 5. In this scenario also, the first step is to proportionately scale back the OCA customer charges to account for the lesser revenue increase. Volumetric rates should then be adjusted to reflect uniform percentage increases for each customer class. *Id*.

After consideration of the Company's approach to allocation of the increased usage-based revenues among the three Tiers or consumption blocks, OCA witness Mierzwa accepted Company witness Fox's approach, coupled with the OCA recommended lower customer charge recovery and corresponding usage-based revenue increase. OCA St. 3SR at 5-9. To the extent that CWC is awarded a lesser revenue increase than filed-for, the customer charges and volumetric rates determined in the first step should be proportionately scaled back to account for that reduction in overall revenue increase. *Id.* at 7. The effect of the scale back is shown in Appendix B to this Brief, at the OCA's recommended total revenue requirement of $7,902,745.[31]

D. Summary and Alternatives

The OCA supports the Company's proposed unification of rates for the Columbia and Marietta rate districts. To set just and reasonable rates, the OCA recommends that the customer charges be designed to provide recovery of only direct costs that are customer-related and do not reflect an excessive percentage increase from the existing customer charge levels for customers in the two rate districts. The OCA's primary customer charge recommendation of $12.45 for 5/8-inch meter service is cost-based and reflects a more moderate increase for Columbia and Marietta rate district customers, than the Company's proposed $14.79 customer charge. The OCA's alternative customer charge recommendation of $13.56 for 5/8-inch meter service would allow recovery of some indirect costs but exclude bad debt expense and the Company's excessive increment of Transmission and Distribution O&M costs.

To develop usage-related charges, the OCA recommends first that revenue shifted from the Company's customer charge proposal should be allocated proportionally among the three tiers. The OCA then supports the general approach applied by CWC witness Fox to assign usage-

[31] Table A (revenue increase by class), Table B (customer charge increase), and Table C (average bill increase by class).

related revenue among the three unified tiers or consumption blocks, maintaining the approximate relationship between the Tier 1 and Tier 2 and Tier 1 and Tier 3 blocks at current rates.

X. QUALITY OF SERVICE

A. The OCA Showed the Need for CWC to Exercise Its Isolation Valves Not Exercised in the Last Ten Years and a Schedule for All Isolation Valves Consistent with Recent Commission Guidance.

OCA engineering witness Terry L. Fought explained that isolation valves are installed on water mains so that the water can be shut off in sections of the distribution system in case of a water main break or for main repairs and replacements. OCA St. 1 at 2-3. Mr. Fought explained the importance of exercising isolation valves:

> It is important to exercise isolation valves to prevent the valves from seizing up and getting stuck from corrosion or other deposits adjacent to the valve. An isolation valve that cannot be fully closed will increase the water loss during a water main break and increase the number of customers affected while the utility finds working valves to isolate a main break.

OCA St. 4 at 3. If an isolation valve becomes inoperable due to lack of being exercised, the valve will have to be repaired or replaced which can be very expensive. *Id.* at 4.

There are critical and non-critical valves. For critical valves, PUC auditors have recently encouraged water utilities to exercise them on a one-to three-year cycle, as reflected in a Management and Operations Audit issued in March 2023 for Pittsburgh Water & Sewer Authority. OCA Exh. TLF-1. “Although not aligned with AWWA standards, a one- to three-year schedule for critical valves provides the company with a balance between resource management and appropriate maintenance.” *Id.* For non-critical valves, PUC auditors have recommended exercise them on a seven- to ten-year schedule. *Id.*

CWC's system has 3,481 valves. CWC St. 1R at 5. CWC has exercised all of its 150 critical isolation valves and 1,530 non-critical valves within the past five years. *Id*. at 8. The Company has 1,425 non-critical valves that it has not exercised within the past five years. Out of those 1,425 valves, if the Company's records show that any isolation valves have not been exercised within the past *ten* years, Mr. Fought recommended that subset of the 1,425 valves should be exercised within the next five years. [32] OCA St. 4 at 6-7; OCA St. 4SR at 4. That would put the Company on track to exercise all of its non-critical isolation valves on a seven- to ten-year cycle going forward, consistent with the recent guidance from the PUC auditors. OCA St. 4 at 3-4. Also consistent with that guidance, Mr. Fought recommended that all critical isolation valves should be exercised on a one- to three-year cycle, except that valves that isolate fire hydrants from the distribution system should be exercised annually to make sure the fire hydrants are usable. OCA St. 4 at 6; OCA St. 4SR at 3.

In rejoinder, CWC witness Lewis stated that CWC is on par to substantially comply with a recommendation to exercise solely the 1,425 non-critical valves that were not exercised in the past 5 years over the next five years. CWC St. 1RJ at 6. Further, he stated that the Company will endeavor to do that and agrees to report on its efforts,[33] but CWC "does not agree to a strict standard of exercising all of its non-critical valves on a ten-year cycle without provision of additional funding to hire additional employees and obtain additional equipment." *Id*.

[32] Mr. Fought and CWC witness David T. Lewis agreed that certain valves cannot be exercised in the ordinary course, such as valves isolating pressure zones or unsafe water. OCA St. 4SR at 4; CWC St. 1R at 7. Also, non-isolating valves such as pressure relief valves or valves at the end of a main extension or cul-de-sac do not need to be exercised. *Id*.

[33] In compliance with the settlement of its prior rate case, CWC has been filing annual reports on its isolation valve exercising including critical valve exercising per the Commission's 2014 Management Audit at Docket No. D-2014-2405415. The reporting requirement terminates when the current rate case is decided by a final Commission order. *Pa. PUC v. Columbia Water Co.*, R-2017-2598203, ¶ 20(f) (Settlement Dec. 12, 2017). www.puc.pa.gov/pcdocs/1546667.pdf

Mr. Lewis's estimates about the cost for exercising valves were not based on Mr. Fought's recommended exercising frequency for non-critical isolation valves, i.e. a subset of 1,425 valves. CWC St. 1R at 5. Rather, it was based on exercising *all* of CWC's 3,481 valves. *Id.*; CWC St. 1RJ at 6; OCA St. 4SR at 4. In rejoinder, Mr. Lewis acknowledged that his cost estimate was based on a different interpretation of Mr. Fought's recommendation. CWC St. 1RJ at 6. As such, the cost estimate would change when based on Mr. Fought's intended recommendation.[34] Moreover, Mr. Lewis's testimony indicates that CWC is substantially complying with Mr. Fought's recommendation as part of its existing operation and maintenance activities, and thus its already budgeted O&M expense. CWC St. 1RJ at 6; OCA St. 4SR at 4. Mr. Lewis continues to argue, however, that to the extent that imposition of Mr. Fought's exercising schedule would require valves to be exercised in areas where crews are not already doing other work, it would be "an unfunded mandate" to perform work beyond what is budgeted or claimed in this rate case. CWC St. 1RJ at 6. However, as Mr. Fought noted, the Company is responsible for properly maintaining all its facilities in accordance with acceptable standards of practice, and the costs for exercising isolation valves on Mr. Fought's recommended schedule are already being reflected in CWC's existing claim for future test year O&M expenses (OCA St. 4SR at 4), if not in full, then in large part.

CWC also generally objected to the need to exercise valves frequently. Mr. Lewis argued, for example, that it is not necessary to be able to fully close an isolation valve during a main repair because the valve should be left open to maintain a positive pressure to keep contaminants from getting into the water main during the repair. CWC St. 1R at 4. Mr. Fought agreed that sometimes a main can be repaired without fully closing the adjacent isolation valves; however,

[34] Mr. Lewis indicated he was not sure whether his first or second interpretation of Mr. Fought's recommendation was intended; as clarified herein, the second interpretation of his valve exercising schedule was intended. See CWC St. 1RJ at 6.

sometimes a main break will make it impossible to prevent a loss of positive pressure and a Boil Water Advisory (BWA) must be issued. OCA St. 4SR at 2-3. This occurred in CWC's system once in 2021 and once in 2022, which demonstrates why it is important that an isolation valve is not stuck in an open position and can be closed when necessary to isolate a main break. Mr. Fought also rebutted Mr. Lewis's contention that, by design, frequent valve exercising is not necessary. OCA St. 4SR at 3; CWC St. 1R at 6. Mr. Fought observed that Mr. Lewis did not provide a reference to acceptable standards of practice to support his testimony and stated that his review of water utilities for the OCA during the past forty years does not support Mr. Lewis's opinion. OCA St. 4SR at 3; *Aqua 2022* at 359 (directing Aqua to develop an isolation valve inspection and exercise program with a defined schedule). Nor is it consistent with PUC auditors' guidance or AWWA standards for isolation valve exercising, which are more stringent. OCA St. 4 at 4; OCA St. 4SR at 4.

Based on the foregoing and as further discussed in the testimony of OCA witness Fought, the OCA recommends that the Commission should require CWC to:

1. Exercise valves to isolate fire hydrants from the distribution system annually.

2. Exercise critical isolation valves on a one-to three-year cycle.

3. Within the next five years, exercise all non-critical isolation valves that CWC has no record of exercising within the past ten years (some number smaller than 1,425 valves). Subsequently, exercise all non-critical isolation valves on a seven-to ten-year cycle. The requirements for exercising non-critical isolation valves should not apply to in-line isolation valves that cannot be exercised on a regular schedule, non-isolating valves such as at the end of a main extension or cul-de-sac, pressure reducing valves, or check valves.

4. Continue to file reports on its valve exercising activities consistent with the settlement of the 2017 base rate proceeding (see, supra, footnote 31).

Also, even after discovery and rounds of testimony, the OCA is not certain of the exact number of valves that were not exercised in the past ten years. *See, e.g.*, OCA St. 4SR at 5-6, n.9; CWC

St. 1R at 8-9 (we do know that 1,425 valves were not exercised in the past five years). As such, the OCA recommends that CWC should also be required to:

5. In its next base rate case filing, include a report on the number of critical valves and non-critical valves that were not exercised during the five-year period ending the most recent calendar year prior to the rate case filing.

This is a reasonable request for information that CWC already tracks and maintains, which will facilitate review and development of a record on the Company's valve exercising activities and status of its isolation valves at the time of that rate case.

B. The Record Shows It Is Reasonable and Consistent with Commission Regulations for CWC to Maintain Complaint Logs with Additional Detail and in a Sortable Format.

The Commission requires that utilities track customer complaints as follows:

> (a) Investigations. A public utility shall make a full and prompt investigation of complaints made by the Commission or by others, including customers, relating to service or facilities.
>
> (b) Records of complaints. A public utility shall preserve for a period of at least 5 years, written service complaints showing the name and address of the complainant, the date and character of the complaint and the final disposition of the complaint.

52 Pa. Code § 65.3; OCA St. 4 at 7. Based on his review of the complaint log that CWC provided in response to discovery in this proceeding, OCA witness Fought recommended that CWC should track more details about the character and final disposition of the complaints and if the complainant was satisfied. OCA St. 4 at 7-8; OCA Exhibit TLF-5; OCA St. 4SR at 7. An excerpt from the information provided by CWC is pasted below:

27. Excluding Formal Complaints filed with the Public Utility Commission, please provide a live Excel copy of the Company's record of customer complaints for the calendar years 2020, 2021, 2022 and 2023 to date. The response should identify complaints regarding water quality (taste, odor, color), staining of laundry or plumbing fixtures, pressure, property damage, incomplete surface restoration, notifications, health issues and other service complaints including billing and requests for water quality and meter testing. The response should include the action taken by the Company in response to the complaint.

RESPONSE:

Date	Customer Address	Complaint	Company Response
5/16/2023	4043 Bradford Circle	Water Quality	Investigated and Discussed
5/4/2023	22 N River St	Water Smells of Chlorine	Investigated and Sampled
4/21/2023	136 Church St	Water Quality	Investigated and Sampled
3/24/2023	313 Hill St	Water Quality	Investigated, Sampled, Flushed
3/13/2023	688 E Market St	High Nitrates	Investigated and Educated
12/28/2022	313 Hill St	Water Quality	Investigated and Discussed
11/14/2022	1 W Main St	High pH	Investigated and Educated
10/21/2022	Froelich St	Water Quality Questions	Investigated and Educated
10/5/2022	462 Lancer Ln	Wate Quality	Investigated and Sampled
8/1/2022	175 Carol Dr	Strong Chlorine Odor	Investigated, Sampled, Flushed
7/6/2022	Mary	Aluminum	Investigated and Educated
7/6/2022	3214 Hosea Carter	Faint Smell	Customer Unavailable

In rebuttal, Mr. Lewis's main objections to Mr. Fought's recommendations about maintaining records with additional detail and in Excel/native format are his claims that the regulation does not require it and that CWC is not out of compliance with the regulation. CWC St. 1R at 9-10. Regarding Mr. Fought's recommendation for additional detail, 52 Pa. Code § 65.3 does require the utility to record the "character of the complaint and the final disposition of the complaint". As shown above and in the full log provided in OCA Exhibit 5, CWC describes many complaints as "Water Quality." Mr. Fought explained that, without more detail, it is not evident whether the water had sediment, was cloudy, or was discolored, or something else. OCA St. 4SR at 7. He stated that having that additional information would be helpful for identifying patterns of complaints and reviewing the reasonableness and sufficiency of the Company's response to complaints. Also, it is not clear from the "Company Response" column, whether or not the Company's action resolved the customer's complaint. As such, the OCA recommends that CWC should be required to record additional detail in its complaint log regarding (1) the character of the complaint, including but not limited to whether a water quality complaint is due to sediment, cloudiness, discoloration, which would indicate what may be the possible cause and (2) whether or not the action taken by the Company resolved the customer's complaint. This recommendation is reasonable and consistent with Section 65.3 and should be adopted.

Mr. Fought also recommended that the complaint log should be available in Excel. OCA St. 4 at 8; OCA St. 4SR at 7. While this is not a requirement under Section 65.3, Mr. Fought explained that the request for Excel format was to facilitate review of the information provided and to make the information more useful, for example, the ability to search and sort the data is helpful to determine whether customers with similar complaints are located in the same or different areas of the system. While Mr. Fought noted that CWC did not have many customer complaints for 2020 through 2023 to date in its Columbia and Marietta divisions, OCA St. 4 at 7, CWC recently acquired the EDTMA system and it is possible the number of recorded complaints may increase due to that acquisition or other reasons, which would make a sortable and searchable complaint log more important. As such, going forward, it is reasonable for CWC to be required to maintain its complaint records in Excel or other sortable and searchable format. The OCA's recommendation is reasonable and should be adopted.

XI. CONCLUSION

The OCA respectfully requests the Commission to deny the water rate increase requested by Columbia Water Company and approve a smaller increase of $657,819 based on the record evidence including the OCA testimonies, and the contents of this Main Brief. The OCA further recommends that CWC should be required to follow the OCA's recommendations regarding isolation valves and customer service logs.

Respectfully Submitted,

/s/ Erin L. Gannon
Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
EGannon@paoca.org

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
BSheridan@paoca.org

Counsel for:
Patrick M. Cicero
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048

Dated: September 12, 2023

Appendix A
Rate Case Tables

TABLE I
Columbia Water Company
R-2023-3040258
INCOME SUMMARY
($000)

	Pro Forma Present Rates (1)	Recommended Adjustments	Adjusted Present Rates	Revenue Adjustment	Total Allowable Revenues
	$	$	$	$	$
Operating Revenues	7,244.926	0.000	7,244.926	657.819	7,902.745
Deductions:					
O & M Expense	4,079.604	(206.842)	3,872.762	0.000	3,872.762
Depreciation	1,174.375	0.000	1,174.375	0.000	1,174.375
Taxes:					
State	58.409	12.653	71.063	55.849	126.911
Federal	0.000	0.000	0.000	0.000	0.000
Other	240.832	(2.249)	238.584	0.000	238.584
Total Expenses	5,553.220	(196.437)	5,356.783	55.849	5,412.632
PennVest Revenues	1,308.122		1,308.122		1,308.122
Net Inc. Available for Return	383.584	196.437	580.021	601.970	1,181.991
Rate Base	18,750.106	(25.501)	18,724.605		18,724.605
Recommended Rate of Return	2.05%				6.31%

(1) Rebuttal Testimony of Gary D. Shambaugh, Exhibit GDS No. 1-R.

TABLE I(A)
Columbia Water Company
R-2023-3040258
RATE OF RETURN

	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Long-term Debt	49.40%	3.15%	1.56%		1.56%
Short-term Debt	0.00%	0.00%	0.00%		
Total Cost of Debt			1.56%		
Preferred Stock	0.00%	0.00%	0.00%	0.915100	0.00%
Common Equity	50.60%	9.40%	4.76%	0.915100	5.20%
	100.00%		6.31%		6.76%
Pre-Tax Interest Coverage	4.34				
After-Tax Interest Coverage	4.06				

TABLE I(B)
Columbia Water Company
R-2023-3040258
REVENUE FACTOR

100%	1.00000000
Less:	
Uncollectible Accounts Factor	0.00000000
PUC, OCA, OSBA Assessment Factors	0.00000000
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	1.00000000
State Income Tax Rate	0.08490000
Effective State Income Tax Rate	0.08490000
Factor After Local and State Taxes	0.91510000
Federal Income Tax Rate	0.00000000
Effective Federal Income Tax Rate	0.00000000
Revenue Factor (100% - Effective Tax Rates)	0.91510000

TABLE II
Columbia Water Company
R-2023-3040258
SUMMARY OF ADJUSTMENTS
($000)

Recommended Adjustments	Exhibit Reference	Rate Base Effect	Revenue Effect	Expense Effect	Depreciation Effect	Effect Upon Taxes-Other	State Tax Effect	Federal Tax Effect
		$	$	$	$	$	$	$
RATE BASE:								
CWC:	Surrebuttal Schedule JLR-4	(25.501)						
Int. & Div. (Table IV)		0.000						
Taxes (Table V)		0.000						
O & M (Table VI)		0.000						
REVENUES:								
			0.000				0.000	0.000
EXPENSES:								
Adjustment to Revise Normalization Period of Rate Case Expense	Surrebuttal Schedule JLR-6			(52.311)			4.441	0.000
Adjustment to Materials and Supplies	Surrebuttal Schedule JLR-7			(59.017)			5.011	0.000
Adjustment to Materials and Supplies Going-Level Adjustment	Surrebuttal Schedule JLR-8			(14.400)			1.223	0.000
Adjustment to Other - Maintenance Expense	Surrebuttal Schedule JLR-9			(28.660)			2.433	0.000
Adjustment to Company Proposed Going-Level Adjustment for Office Expenses	Surrebuttal Schedule JLR-10			(3.466)			0.294	0.000
Adjustment to Regulatory Assessments Adjustment				0.000		(2.249)	0.191	0.000
Adjustment to Remove EDTMA Expenses	Surrebuttal Schedule JLR-15			(48.987)			4.159	0.000
Adjustment to State Income Tax	Surrebuttal Schedule JLR-16			0.000			(3.249)	0.000
				0.000			0.000	0.000
				0.000			0.000	0.000
				0.000			0.000	0.000
				0.000			0.000	0.000
Interest Synchronization	Table III						(1.850)	0.000
TOTAL Adjustments		(25.501)	0.000	(206.842)	0.000	(2.249)	12.653	0.000
Company Rate Base		18,750.106						
Recommended Rate Base		18,724.605						

TABLE III
Columbia Water Company
R-2023-3040258
INTEREST SYNCHRONIZATION
($000)

	Amount $
Company Rate Base Claim	18,750.106
Rate Base Adjustments	(25.501)
Rate Base	18,724.605
Weighted Cost of Debt	0.016
Interest Expense	291.374
PENNVEST Interest Expense (1)	419.382
Total Interest Expense per OCA	710.756
Company Claim (2)	688.965
Total Adjustment	(21.791)
Company Adjustment	0.000
Net Interest Adjustment	(21.791)
State Income Tax Rate	0.085
State Income Tax Adjustment	(1.850)
Net Interest Adjustment	(21.791)
State Income Tax Adjustment	(1.850)
Net Adjustment for F.I.T.	(19.941)
Federal Income Tax Rate	0.000
Federal Income Tax Adjustment	0.000

(1) Exhibit GDS No. 5-R, Pg. 1 of 2, Line 37.
(2) Rebuttal Testimony of Gary D. Shambaugh, Exhibit GDS

TABLE IV
Columbia Water Company
R-2023-3040258
CASH WORKING CAPITAL Adjustment
($000)

Company Operation and Maintenance Expense (1)		4079.604
Less: Purchased Water Expense (1)	0.000	
Bad Debt (1)		11.800
Company Total		4067.804
OCA O&M Expense Adjustments (Table II)		-206.842
Total with OCA Adjustments		3860.962
Company Adjusted Cash Working Capital = Based on 45 days		501.510
OCA Adjusted Cash Working Capital = Based on 45 days		476.009
Cash Working Capital - 12 Months Ended 12/31/2023 (1)		501.510
Company Net Change		0.000
OCA Net Change		-25.501
OCA Adjustment to Cash Working Capital		-25.501

(1) Rebuttal Testimony of Gary D. Shambaugh, Exhibit GDS No. 1-R.

Appendix B
Class Rate Impact Analysis

COLUMBIA WATER COMPANY
RATE IMPACT ANALYSIS BY CLASS AT PRESENT AND PROPOSED RATES

Company Revenue Requirements Claim and OCA Primary Customer Charge Recommendation

Columbia Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 3,646,845	$ 4,098,038	$ 451,193	12.4%
Commercial	$ 749,170	$ 887,157	$ 137,987	18.4%
Industrial	$ 213,402	$ 303,797	$ 90,395	42.4%
Public Authority	$ 67,105	$ 75,579	$ 8,474	12.6%
Private Fire	$ 89,947	$ 90,907	$ 960	1.1%
Public Fire	$ 248,424	$ 250,856	$ 2,432	1.0%
TOTAL	$ 5,014,893	$ 5,706,334	$ 691,441	13.8%

Marietta Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 612,005	$ 802,135	$ 190,130	31.1%
Commercial	$ 61,746	$ 89,243	$ 27,497	44.5%
Industrial	$ 117,657	$ 192,149	$ 74,492	63.3%
Public Authority	$ 14,389	$ 21,864	$ 7,475	51.9%
Private Fire	$ 30,937	$ 33,436	$ 2,499	8.1%
Public Fire	$ 40,284	$ 44,776	$ 4,492	11.1%
TOTAL	$ 877,018	$ 1,183,603	$ 306,585	35.0%
Consolidated Division Total	$ 5,891,911	$ 6,889,937	$ 998,026	16.9%

OCA Recommended Revenue Requirement and OCA Primary Customer Charge Recommendation

Columbia Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 3,646,845	$ 3,883,032	$ 236,187	6.5%
Commercial	$ 749,170	$ 840,337	$ 91,167	12.2%
Industrial	$ 213,402	$ 287,910	$ 74,508	34.9%
Public Authority	$ 67,105	$ 71,595	$ 4,490	6.7%
Private Fire	$ 89,947	$ 90,907	$ 960	1.1%
Public Fire	$ 248,424	$ 250,856	$ 2,432	1.0%
TOTAL	$ 5,014,893	$ 5,424,637	$ 409,744	8.2%

Marietta Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 612,005	$ 759,984	$ 147,979	24.2%
Commercial	$ 61,746	$ 84,544	$ 22,798	36.9%
Industrial	$ 117,657	$ 182,130	$ 64,473	54.8%
Public Authority	$ 14,389	$ 20,716	$ 6,327	44.0%
Private Fire	$ 30,937	$ 33,436	$ 2,499	8.1%
Public Fire	$ 40,284	$ 44,776	$ 4,492	11.1%
TOTAL	$ 877,018	$ 1,125,586	$ 248,568	28.3%
Consolidated Division Total	$ 5,891,911	$ 6,550,223	$ 658,312	11.2%

COLUMBIA WATER COMPANY
RATE IMPACT ANALYSIS BY CLASS AT PRESENT AND PROPOSED RATES

Company Revenue Requirements Claim and OCA Alternate Customer Charge Recommendation

Columbia Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 3,646,845	$ 4,123,825	$ 476,980	13.1%
Commercial	$ 749,170	$ 879,701	$ 130,531	17.4%
Industrial	$ 213,402	$ 297,299	$ 83,897	39.3%
Public Authority	$ 67,105	$ 76,354	$ 9,249	13.8%
Private Fire	$ 89,947	$ 90,907	$ 960	1.1%
Public Fire	$ 248,424	$ 250,856	$ 2,432	1.0%
TOTAL	$ 5,014,893	$ 5,718,942	$ 704,049	14.0%

Marietta Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 612,005	$ 798,604	$ 186,599	30.5%
Commercial	$ 61,746	$ 89,387	$ 27,641	44.8%
Industrial	$ 117,657	$ 186,539	$ 68,882	58.5%
Public Authority	$ 14,389	$ 21,685	$ 7,296	50.7%
Private Fire	$ 30,937	$ 33,436	$ 2,499	8.1%
Public Fire	$ 40,284	$ 44,776	$ 4,492	11.1%
TOTAL	$ 877,018	$ 1,174,427	$ 297,409	33.9%
Consolidated Division Total	$ 5,891,911	$ 6,893,369	$ 1,001,458	17.0%

OCA Recommended Revenue Requirement and OCA Alternate Customer Charge Recommendation

Columbia Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 3,646,845	$ 3,907,077	$ 260,232	7.1%
Commercial	$ 749,170	$ 832,213	$ 83,043	11.1%
Industrial	$ 213,402	$ 280,773	$ 67,371	31.6%
Public Authority	$ 67,105	$ 72,450	$ 5,345	8.0%
Private Fire	$ 89,947	$ 90,907	$ 960	1.1%
Public Fire	$ 248,424	$ 250,856	$ 2,432	1.0%
TOTAL	$ 5,014,893	$ 5,434,276	$ 419,383	8.4%

Marietta Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 612,005	$ 755,690	$ 143,685	23.5%
Commercial	$ 61,746	$ 84,673	$ 22,927	37.1%
Industrial	$ 117,657	$ 175,960	$ 58,303	49.6%
Public Authority	$ 14,389	$ 20,519	$ 6,130	42.6%
Private Fire	$ 30,937	$ 33,436	$ 2,499	8.1%
Public Fire	$ 40,284	$ 44,776	$ 4,492	11.1%
TOTAL	$ 877,018	$ 1,115,054	$ 238,036	27.1%
Consolidated Division Total	$ 5,891,911	$ 6,549,330	$ 657,419	11.2%

COLUMBIA WATER COMPANY
PRESENT AND PROPOSED MONTHLY CUSTOMER CHARGES AND % OF INCREASE FROM EXISTING RATES

Company Revenue Requirements Claim and OCA Primary Customer Charge Recommendation

Columbia Division

Meter Size	Present Rates	Proposed Rates	Increase	Percent
5/8"	$ 10.31	$ 12.45	$ 2.14	20.8%
3/4"	$ 15.49	$ 17.80	$ 2.31	14.9%
1"	$ 25.82	$ 28.51	$ 2.69	10.4%
1-1/2"	$ 51.64	$ 55.28	$ 3.64	7.0%
2"	$ 82.62	$ 87.41	$ 4.79	5.8%
3"	$ 154.89	$ 173.08	$ 18.19	11.7%
4"	$ 258.15	$ 269.46	$ 11.31	4.4%
6"	$ 516.32	$ 537.19	$ 20.87	4.0%
8"	$ 826.10	$ 858.46	$ 32.36	3.9%

Marietta Division

Meter Size	Present Rates	Proposed Rates	Increase	Percent
5/8"	$ 8.20	$ 12.45	$ 4.25	51.8%
3/4"	$ 12.30	$ 17.80	$ 5.50	44.7%
1"	$ 20.50	$ 28.51	$ 8.01	39.1%
1-1/2"	$ 41.00	$ 55.28	$ 14.28	34.8%
2"	$ 65.60	$ 87.41	$ 21.81	33.2%
3"	$ 123.00	$ 173.08	$ 50.08	40.7%
4"	$ 205.00	$ 269.46	$ 64.46	31.4%
6"	$ 410.00	$ 537.19	$ 127.19	31.0%
8"	$ 738.00	$ 858.46	$ 120.46	16.3%

OCA Recommended Revenue Requirement and OCA Primary Customer Charge Recommendation

Columbia Division

Meter Size	Present Rates	Proposed Rates	Increase	Percent
5/8"	$ 10.31	$ 11.80	$ 1.49	14.5%
3/4"	$ 15.49	$ 16.87	$ 1.38	8.9%
1"	$ 25.82	$ 27.02	$ 1.20	4.6%
1-1/2"	$ 51.64	$ 52.38	$ 0.74	1.4%
2"	$ 82.62	$ 82.83	$ 0.21	0.3%
3"	$ 154.89	$ 164.01	$ 9.12	5.9%
4"	$ 258.15	$ 255.34	$ (2.81)	-1.1%
6"	$ 516.32	$ 509.04	$ (7.28)	-1.4%
8"	$ 826.10	$ 813.48	$ (12.62)	-1.5%

Marietta Division

Meter Size	Present Rates	Proposed Rates	Increase	Percent
5/8"	$ 8.20	$ 11.80	$ 3.60	43.9%
3/4"	$ 12.30	$ 16.87	$ 4.57	37.2%
1"	$ 20.50	$ 27.02	$ 6.52	31.8%
1-1/2"	$ 41.00	$ 52.38	$ 11.38	27.8%
2"	$ 65.60	$ 82.83	$ 17.23	26.3%
3"	$ 123.00	$ 164.01	$ 41.01	33.3%
4"	$ 205.00	$ 255.34	$ 50.34	24.6%
6"	$ 410.00	$ 509.04	$ 99.04	24.2%
8"	$ 738.00	$ 813.48	$ 75.48	10.2%

COLUMBIA WATER COMPANY
PRESENT AND PROPOSED MONTHLY CUSTOMER CHARGES AND % OF INCREASE FROM EXISTING RATES

Company Revenue Requirements Claim and OCA Alternate Customer Charge Recommendation

Columbia Division

Meter Size	Present Rates	Proposed Rates	Increase	Percent
5/8"	$ 10.31	$ 13.56	$ 3.25	31.5%
3/4"	$ 15.49	$ 19.20	$ 3.71	24.0%
1"	$ 25.82	$ 30.48	$ 4.66	18.0%
1-1/2"	$ 51.64	$ 58.66	$ 7.02	13.6%
2"	$ 82.62	$ 92.49	$ 9.87	11.9%
3"	$ 154.89	$ 182.68	$ 27.79	17.9%
4"	$ 258.15	$ 284.15	$ 26.00	10.1%
6"	$ 516.32	$ 566.02	$ 49.70	9.6%
8"	$ 826.10	$ 904.26	$ 78.16	9.5%

Marietta Division

Meter Size	Present Rates	Proposed Rates	Increase	Percent
5/8"	$ 8.20	$ 13.56	$ 5.36	65.4%
3/4"	$ 12.30	$ 19.20	$ 6.90	56.1%
1"	$ 20.50	$ 30.48	$ 9.98	48.7%
1-1/2"	$ 41.00	$ 58.66	$ 17.66	43.1%
2"	$ 65.60	$ 92.49	$ 26.89	41.0%
3"	$ 123.00	$ 182.68	$ 59.68	48.5%
4"	$ 205.00	$ 284.15	$ 79.15	38.6%
6"	$ 410.00	$ 566.02	$ 156.02	38.1%
8"	$ 738.00	$ 904.26	$ 166.26	22.5%

OCA Recommended Revenue Requirement and OCA Alternate Customer Charge Recommendation

Columbia Division

Meter Size	Present Rates	Proposed Rates	Increase	Percent
5/8"	$ 10.31	$ 12.96	$ 2.65	25.7%
3/4"	$ 15.49	$ 18.35	$ 2.86	18.5%
1"	$ 25.82	$ 29.12	$ 3.30	12.8%
1-1/2"	$ 51.64	$ 56.05	$ 4.41	8.5%
2"	$ 82.62	$ 88.37	$ 5.75	7.0%
3"	$ 154.89	$ 174.55	$ 19.66	12.7%
4"	$ 258.15	$ 271.51	$ 13.36	5.2%
6"	$ 516.32	$ 540.83	$ 24.51	4.7%
8"	$ 826.10	$ 864.02	$ 37.92	4.6%

Marietta Division

Meter Size	Present Rates	Proposed Rates	Increase	Percent
5/8"	$ 8.20	$ 12.96	$ 4.76	58.0%
3/4"	$ 12.30	$ 18.35	$ 6.05	49.2%
1"	$ 20.50	$ 29.12	$ 8.62	42.0%
1-1/2"	$ 41.00	$ 56.05	$ 15.05	36.7%
2"	$ 65.60	$ 88.37	$ 22.77	34.7%
3"	$ 123.00	$ 174.55	$ 51.55	41.9%
4"	$ 205.00	$ 271.51	$ 66.51	32.4%
6"	$ 410.00	$ 540.83	$ 130.83	31.9%
8"	$ 738.00	$ 864.02	$ 126.02	17.1%

COLUMBIA WATER COMPANY
PRESENT AND PROPOSED RATES FOR THE AVERAGE CUSTOMER BILL BY CLASS ($ AND % INCREASE)

Company Revenue Requirements Claim and OCA Primary Customer Charge Recommendation

Columbia Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 37.67	$ 42.09	$ 4.42	11.7%
Commercial	$ 149.07	$ 172.37	$ 23.30	15.6%
Industrial	$ 598.10	$ 780.91	$ 182.81	30.6%
Public Authority	$ 21.83	$ 24.93	$ 3.10	14.2%

Marietta Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 32.57	$ 42.09	$ 9.52	29.2%
Commercial	$ 100.87	$ 172.37	$ 71.50	70.9%
Industrial	$ 544.42	$ 780.91	$ 236.49	43.4%
Public Authority	$ 20.38	$ 24.93	$ 4.55	22.3%

OCA Recommended Revenue Requirement and OCA Primary Customer Charge Recommendation

Columbia Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 37.67	$ 39.24	$ 1.57	4.2%
Commercial	$ 149.07	$ 160.06	$ 10.99	7.4%
Industrial	$ 598.10	$ 729.09	$ 130.99	21.9%
Public Authority	$ 21.83	$ 23.35	$ 1.52	7.0%

Marietta Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 32.57	$ 39.24	$ 6.67	20.5%
Commercial	$ 100.87	$ 160.06	$ 59.19	58.7%
Industrial	$ 544.42	$ 729.09	$ 184.67	33.9%
Public Authority	$ 20.38	$ 23.35	$ 2.97	14.6%

COLUMBIA WATER COMPANY
PRESENT AND PROPOSED RATES FOR THE AVERAGE CUSTOMER BILL BY CLASS ($ AND % INCREASE)

Company Revenue Requirements Claim and OCA Alternate Customer Charge Recommendation

Columbia Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 37.67	$ 42.21	$ 4.54	12.1%
Commercial	$ 149.07	$ 169.52	$ 20.45	13.7%
Industrial	$ 598.10	$ 778.90	$ 180.80	30.2%
Public Authority	$ 21.83	$ 25.62	$ 3.79	17.4%

Marietta Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 32.57	$ 42.21	$ 9.64	29.6%
Commercial	$ 100.87	$ 169.52	$ 68.65	68.1%
Industrial	$ 544.42	$ 778.90	$ 234.48	43.1%
Public Authority	$ 20.38	$ 25.62	$ 5.24	25.7%

OCA Recommended Revenue Requirement and OCA Alternate Customer Charge Recommendation

Columbia Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 37.67	$ 39.88	$ 2.21	5.9%
Commercial	$ 149.07	$ 163.27	$ 14.20	9.5%
Industrial	$ 598.10	$ 740.09	$ 141.99	23.7%
Public Authority	$ 21.83	$ 23.62	$ 1.79	8.2%

Marietta Division

Class	Present Rates	Proposed Rates	Increase	Percent
Residential	$ 32.57	$ 39.88	$ 7.31	22.4%
Commercial	$ 100.87	$ 163.27	$ 62.40	61.9%
Industrial	$ 544.42	$ 740.09	$ 195.67	35.9%
Public Authority	$ 20.38	$ 23.62	$ 3.24	15.9%

Appendix C
Proposed Findings of Fact

OCA PROPOSED FINDINGS OF FACT

INTRODUCTION

1. Columbia rate district customers separately pay a PENNVEST surcharge at a flat rate of $9.69 per month. *The Columbia Water Company Supplement No. 117 To Tariff – Water Pa. P.U.C. No. 7*, 4 (Order Feb. 9, 2023).

RATE BASE

2. The OCA and Company are in agreement as to the method to identify the cash working capital component of rate base. OCA St. 1 at 5.

3. The OCA's cash working capital adjustment is tied to the OCA adjustment to the Company's O&M expense claim. OCA St. 1SR at 2. OCA witness Rogers has made an adjustment to the cash working capital to reduce CWC witness Shambaugh's revised rate base by $25,501, as shown on OCA Schedule JLR-4 Surrebuttal. OCA St. 1SR at 2; App. A, Table I, col. C, ln. 25; CWC Exh. GDS 1R.

REVENUES

4. The OCA accepted the Company's revised statement of revenues at present rates. OCA St. 1SR at 2; App. A., Table I, col. D, ln 12.

EXPENSES

5. The Company revised its interest expense deduction for calculation of taxes, to remove interest expense associated with the EDMTA system. The OCA accepted the Company's reduced level of interest expense for ratemaking. OCA St. 1SR at 26.

6. The OCA's recommended five-year normalization period for rate case expense reflects the historic interval between the Company's base rate filings. The OCA recommended adjustment is $52,311. OCA St. 1 at 6-7; OCA 1S at 22.

7. The OCA adjusts Materials and Supplies expense to account for the variable nature of this large category of expense. The OCA reduces the HTY value to based upon a three-year average of actual Materials and Supplies expense. The OCA adjusts the Company's $55,010 Going Level adjustment, to provide a normalized level of expense for abnormal road restoration expense. OCA St. 1 at 7-9; OCA St. 1S at 8-15.

8. The OCA adjusts the HTY value for Other-Maintenance expense based upon a three-year average of actual expense, a $28,600 reduction. OCA St. 1 at 9-11; OCA St. 1SR at 3-7.

9. The OCA's adjustment allows expense for upgrading billing software based upon a five-year normalization period. OCA St. 1at 11; OCA St. 1SR at 22-23.

10. A lower Regulatory Assessments expense adjustment is based upon the OCA's revised ratemaking recommendation. OCA St. 1 at 13; OCA St. 1SR at 25.

11. The Company's cost of service requires further reduction by $48,987 to remove additional expenses related to the Company's provision of service to EDMTA customers. The OCA adjustment removes an allocated share of Officers and Directors expense, Materials and Supplies, Testing, General Liability, and other expense categories to EDMTA, to avoid charging Columbia and Marietta rate districts with these costs. OCA St. 1 at 14-19; OCA St. 1SR at 15-21.

TAXES

12. The Company's rate filing applies the current Pennsylvania Corporate Net Income Tax (CNIT) Rate of 8.99% to determine tax expense.

13. The Company's new rates should be calculated based upon the Pennsylvania CNIT rate of 8.49% that will take effect January 1, 2024. OCA St. 1 at 24; OCA St. 1SR at 25-26.

COST OF CAPITAL AND RATE OF RETURN

Capital Structure

14. The common debt ratio of CWC's requested capital structure of 37% is notably lower than the average of the six water utilities in the proxy group (49.4%). OCA St. 2 at 6; OCA Exh. DJG-14.

15. A hypothetical capital structure of 49.50% long term debt and 50.60% common equity based upon the average capital structure of the proxy group companies should be used to set new water service rates to be paid by the Company's Columbia and Marietta rate district customers. OCA St. 2 at 7.

16. A higher Weighted Average Cost of Capital (WACC) results in higher rates. OCA St. 4 at 58-61.

17. If the Company's proposed capital structure is used to set rates, the allowed return on equity should be no higher than 8.8%. The 8.8% return on equity is the median result of Mr. Garrett's recommended return on equity range. OCA St. 4 at 7-8.

18. The Company's proposed capital structure excludes the Company's PENNVEST loans. Tr. 99-101.

Cost Rate of Common Equity

Proxy Group

19. The OCA has chosen to use the same proxy group as selected by CWC witness D'Ascendis. OCA St. 4 at 5, 16-17.

DCF Analysis

20. Mr. Garrett used two variations of the Discounted Cash Flow (DCF) models. One variation uses a sustainable growth rate. The other variation uses analysts' growth rates. OCA St. 4 at 25-33.

21. Mr. Garrett's DCF sustainable growth rate analysis indicates a cost of equity of 6.00%. The analyst growth rate variation produced a result of 9.4%. OCA St. 4 at 33.

22. The growth rate for the DCF must be estimated. Mr. Garrett used analyst growth rates for one model. Analyst growth rates refer to short-term projections of earnings growth published by institutional research analystes. OCA St. 4 at 29-30, 32-33.

23. Mr. Garrett used sustainable growth rates for a second DCF model analysis. Mr. Garrett use the projected long-term GDP growth rate of 3.9% for his second DCF variation. OCA St. 4 at 32-33.

24. Of the results of the two DCF variations, the sustainable DCF results of 6.0% is an outlier. OCA St. 4 at 33.

25. If the Commission does not adopt Mr. Garrett's recommended cost of equity for CWC, the allowed cost of equity should be no higher than the 9.13% result of Company witness D'Ascendis' DCF model for the proxy group. OCA St. 4 at 34.

CAPM

26. The CAPM model is a market-based model founded on the principle that investors expect higher returns for incurring additional risk. OCA St. 4 at 35.

27. The basic CAPM equation requires only three inputs to estimate the cost of equity: the risk-free rate, the beta coefficient, and the equity risk premium. OCA St. 4 at 35.

28. OCA witness Garrett estimated that the Company's CAPM cost of equity is 8.2%, but only if imputing the average capital structure of the proxy group for CWC. OCA St. 4 at 6, 44; see Exh. DJG-12.

29. Mr. Garrett considered a 30-day average of daily Treasury yield curve rates on 30-year Treasury bonds in his risk-free rate estimate, which resulted in a risk-free rate of 3.90%. OCA St. 4 at 36; Exh. DJG-8.

30. Mr. Garrett used beta coefficients recently published by *Value Line*, based upon consideration of the betas for the proxy group and each proxy group company. OCA St. 4 at 37-38.

31. For the equity risk premium (ERP), Mr. Garrett identified three basic methods that can be used to estimate the ERP: 1) calculation of a historical average, 2) taking a survey of experts, and 3) calculating the implied ERP. Mr. Garrett evaluated each. OCA St. 4 at 38-44.

32. Mr. Garrett's ERP of 5.5% is based upon his consideration of results of ERP surveys, estimated ERP from two sources (Kroll, Dr. Damodaran) and Mr. Garrett's calculation of the implied ERP. OCA St. 4 at 44.

33. OCA witness Garrett attributed Mr. D'Ascendis excessive CAPM results primarily to Mr. D'Ascendis estimate of the ERP as 10.0%. OCA St. 4 at 46-47.

34. Mr. Garrett evaluated the Company's other Risk Premium analyses. The Company's reliance in part on bond yields dating from 1928 forward is data of questionable relevance, because cost of equity estimation is a forward looking process. OCA St. 4 at 48-49.

35. The Company's Empirical CAPM method applied by Mr. D'Ascendis is based on overestimated ERP inputs, producing an average result of 12.05%. OCA St. 4 at 49-50.

Risk Adjustments

36. OCA witness Garrett opposed the Company's unquantified position that an adjustment for firm specific risks should be considered. OCA St. 4 at 51-52.

37. Mr. Garrett evaluated and opposed the Company's proposed upward adjustment of 1.0% to the indicated cost of equity for small size effect. OCA St. 52-56.

38. The Company proposed a financial risk adjustment of -0.11% to address the Company's financial risk relative to the proxy group.

39. CWC acknowledged that it has less financial risk relative to the proxy group. The Company's -0.11% adjustment is inadequate to properly address the imbalance between CWC's low financial risk due to having much less debt in its capital structure. OCA St. 4 at 57-58.

CAPITAL STRUCTURE

40. The average debt ratio of the proxy group is 49.4%. The Company's proposed debt ratio is only 36.66%. OCA St. 4 at 5, 62.

41. Based on an analysis of the debt ratios of the proxy group companies, debt ratios observed by Mr. Garrett for other national companies, and debt ratios for industries relatively comparable to public utilities, CWC's debt ratio of 36.66% is too low and should not be used to set rates. OCA St. 62-64.

42. The average debt ratio of the proxy group companies should be used to set a fair rate of return, based upon Mr. Garrett analyses. OCA St. 4 at 64.

43. Mr. Garrett applied the Hamada model to assess the impacts of the OCA recommended capital structure proposal on the Company's cost of equity. The Hamada formula can be used to analyze changes in a firm's cost of capital as it adds or reduces financial leverage or debt, in its capital structure. OCA St. 4 at 65-68.

44. Based upon the Hamada formula analysis, Mr. Garrett observed that relative to the proxy group, CWC should have a much lower cost of equity at the Company's debt ratio than if the Company was operating with a capital structure equal to that of the proxy group. At the Company's capital structure the cost of equity estimate is 7.5%. OCA St. 4 at 67; Exh. DJG-16.

45. Mr. Garrett has used the results of the Hamada formula to inform his primary cost of equity recommendation linked to a capital structure based upon the proxy group ratios, as well as Mr. Garrett's alternative cost of equity recommendation linked to use of the Company's proposed capital structure. OCA St. 4 at 68, see also OCA St. 4 at 4-8, Figures 3 and 4.

RATE STRUCTURE

46. The Company has proposed to unify the rates for the Columbia and Marietta rate districts, with increases to the customer charge and adjustments to the volumetric rates divided among three consumption tiers. OCA St. 3 at 3-6.

47. OCA witness Mierzwa generally accepts the Company's choice of the base-extra capacity method for the Company's cost of service study. OCA St. 3 at 3, 4-6.

48. A cost of service study is but one consideration in development of a reasonable rate design. Other principles including gradualism as described in *Bonbright* may also require consideration. OCA St. 3 at 7, 10-11.

49. The Company's present rates and proposed rates do not distinguish directly by rate class. The Company's proposed rates do not allocate costs to individual customer classes. OCA St. 3 at 4; OCA St. 3SR at 6.

Volumetric Rates

50. The OCA supports the Company's allocation proposal for volumetric rates at the Company's as-filed-for revenue request, as set forth in Company witness Fox' rejoinder testimony. OCA St. 3SR at 6; CWC Exh. DF-9Rej.

51. The OCA's support for the Company's allocation proposal for volumetric rates is based upon consideration of the relative changes between the Tier 1, Tier 2, and Tier 3 consumption blocks. The OCA support is also based upon recognition that more granular and detailed data was not available in this case. OCA St. 3R at 4; OCA St. 3SR at 5-9; Tr. 79.

52. OSBA witness Kalcic recommended uniform increases to the consumption tiers in the absence of a class allocation proposal as part of the Company's cost of service study. OSBA St. 1S at 5; Tr. 79.

53. The Company's proposed reduced volumetric rate for the first consumption block would reduce the consumption charge at that level of Marietta customers, a small counter-

balance to the high percentage increase for the customer charge proposed by the Company. OCA St. 3 at 11.

54. Mr. Mierzwa accepted that the Company's proposed increase for the higher volume consumption tiers would provide a stronger pricing signal to promote conservation and have a positive impact on the Company's future capital improvement plans. OCA St. 3SR at 7; OCA St. 1 at 11.

Tariff Structure

55. The Company has developed the proposed customer charge to recover a variety of operating costs on a fixed monthly basis, including building rental expense and overheads that do not vary directly with the number of customers connected. OCA St. 1 at 7-8.

56. The Company's proposed customer charges would increase the rate for 5/8-inch meter service for Columbia rate district customers by 43.5% and for Marietta rate district customers by 80.4%. CWC Exh. DF-9RJ at 1.

57. OCA witness Mierzwa opposed the Company's proposal to recover a greater portion of its revenue requirement through such increases to the customer charge. An appropriate customer charge level should provide neither too much nor too little recovery of customer-related costs of service, as the Company may gain or lose a customer. OCA St. 3 at 7-8; OCA St. 3SR at 3-5.

58. For development of an appropriate customer charge at proposed rates, the OCA adopted the Transmissions and Distribution O&M allocation factor recommended by OSBA witness Kalcic. OCA St. 3SR at 3-4.

59. The OCA recommended monthly customer charge for 5/8-inch meter service of $12.45 under the Company's as-filed for revenue request would reflect a 20.8% increase for Columbia rate district customers and a 51.8% increase for Marietta rate district customers. The OCA recommended customer charge increase provides for recovery of direct customer-related costs, a share of Public Fire protection costs, and is more moderate than the Company's proposed increases. OCA St. 3 at 6-12; OCA St. 3SR at 1-5; OCA Sch. JDM-1 SR.

60. The OCA alternative recommended monthly customer charge for 5/8-inch meter service of $13.56 under the Company's as-filed for revenue request would be a 31.5% increase for Columbia rate district customers and a 65.4% increase for Marietta rate district customers. OCA St. 3 at 6-12; OCA St. 3SR at 1-5; OCA Sch. JDM-1 SR.

61. The OCA alternative recommended monthly customer charges set the upper limit for an allowable customer charge for ratemaking in this case. OCA St. 3SR at 4; OCA Sch. JDM 3SR; OCA Sch. JDM-2 SR.

62. Adoption of the OCA primary or alternative customer charge recommendation will require re-allocation of revenues to the volumetric rates at the Company's full request. Mr. Mierzwa explained that effect would alter the Company's proposed reduction for the Tier 1 consumption level – a benefit to Marietta customers – by a relatively small amount. OCA St. 3 at 11, n. 4.

Scale Back

63. Pursuant to the OCA recommendation of a lower allowed increase in annual revenues, the Company's proposed customer charges and volumetric usage charges should be scaled back. OCA St. 3 at 8, 10-11.

64. To the extent that the Commission authorizes an increase in revenues that is below the Company's request, OCA witness Mierzwa recommends that relief first be applied to scale back the customer charges from the levels recommended by Mr. Mierzwa. This first scale back step should apply whether the Commission has adopted the OCA's primary or alternative customer charge recommendation. OCA St. 3 at 8, 10, 11-12.

65. Based upon a lower allowed revenue increase, after the customer charges are scaled back as part of Mr. Mierzwa's first step, OCA witness Mierzwa accepted Company witness Fox's approach to allocation of any increase in revenues among the three Tiers or consumption blocks. OCA St. 3SR at 5-9.

66. In the event the Commission adopts the OSBA position that usage rates corresponding to customer classes should be assigned a uniform percentage increase and the Company's allowed revenue increase is reduced, the OCA recommends that the first step of the scale back should reduce the OCA recommended customer charge levels. Volumetric rates should then be adjusted as the second step to reflect uniform percentage increases. OCA St. 3SR at 5.

QUALITY OF SERVICE

Isolation Valves

67. Isolation valves are installed on water mains so that the water can be shut off in sections of the distribution system in case of a water main break. OCA St. 4 at 2-3.

68. Exercise of isolation valves by the water utility is important to prevent the valves from seizing up and getting stuck from corrosion or other deposits adjacent to the valves. An isolation valve that cannot fully close presents a risk of water loss during a break and an increase in the number of customers adversely affected during the water utility's repair endeavors. OCA St. 4 at 3.

69. PUC auditors have encouraged water utilities to exercise critical valves on a one- to three-year cycle. OCA St. 4, OCA Exh. TLF-1.

70. PUC auditors have encouraged water utilities to exercise non-critical valves on a seven- to ten-year cycle. OCA St. 4, OCA Exh. TLF-1.

71. The Company's system has 3,481 valves. OCA witness Fought reviewed and summarized the Company's history of exercising valves over the past ten or more years. CWC 1R at 5; OCA St. 4 at 6-7; OCA St. 4SR at 4.

72. Consistent with PUC guidance, Mr. Fought recommended that all critical isolation valves should be exercised on a one- to three-year cycle. Valves that isolate fire hydrants in the distribution system should be exercised annually. OCA St. 4 at 6; OCA St. 4SR at 3.

73. The Company's estimate of costs actually applied to all 3,481 valves, rather than the subset of 1,425 non-critical valves that the Company has not exercise in the past five years. CWC St. 1RJ at 4-6.

74. The Company is responsible for properly maintaining all of its facilities in accordance with acceptable standards of practice. OCA St. 4SR at 4.

75. The record reflects that CWC is substantially complying with OCA witness Fought's recommendation as part of the Company's existing operations and maintenance activities. CWC St. 1RJ at 6; OCA St. 4SR at 4.

76. The ability to fully close an isolation valve is important to assure it is not stuck in an open position and can be closed when necessary. A water main break that triggers issuance of a Boil Water Advisory illustrates the importance of a functioning isolation valve. OCA St. 4SR at 2-3.

Complaint Logs

77. OCA witness Fought compared the Company's complaint log with the Commission's regulatory requirements. Based upon his review, the Company should track more details about the character and final disposition of the complaint and if the complaint was satisfied. OCA St. 4 at 7-8; OCA Exh. TLF-5; OCA St. 4SR at 7.

78. OCA witness Fought recommended the Company maintain its complaint log in Excel format, to facilitate review, sorting and comparisons. Although not required by Commission regulation, modification of the Company's complaint log practice would promote its usefulness, particularly as the Company's customer base has expanded to include EDMTA. OCA St. 4 at 8; OCA St. 4SR at 7.

Appendix D
Proposed Conclusions of Law and Ordering Paragraphs

OCA PROPOSED CONCLUSIONS OF LAW

1. Columbia Water Company is a public utility as defined in section 102 of the Public Utility Code. 66 Pa. C.S. § 102.

2. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa. C.S. §§ 101, *et seq*.

3. The utility requesting the rate increase has the burden of establishing the justness and reasonableness of every element of its requested rate increase. 66 Pa. C.S. §§ 315(a), 1301, and 1308(e).

4. Columbia Water Company has the burden of proving that the rate involved is just and reasonable. 66 Pa. C.S. §§ 315(a), 1301, and 1308(e).

5. The Commission has broad authority to consider a utility's customer service and quality of service and is required to evaluate the "efficiency, effectiveness, and adequacy of service" in reviewing existing and proposed rates. 66 Pa. C.S. §§ 523(a), 1501.

6. The Commission has authority to prescribe just and reasonable standards and practices to be furnished by a utility and to require changes and improvements, as necessary to make such service and facilities adequate, efficient, safe, and reasonable. 66 Pa. C.S. §§ 1501, 1504.

7. Columbia Water Company has established that it is entitled to no more than $657,819 in additional annual revenue for its Columbia rate district and Marietta rate district water operations.

8. The Company has not met its burden of proving that the rates, rules, and regulations in its existing and proposed tariffs are just and reasonable.

OCA PROPOSED ORDERING PARAGRAPHS

It is hereby ORDERED THAT:

1. Columbia Water Company shall not place into effect the rates, rules and regulations contained in Suspension Tariff Supplement No. 122 - Tariff Water - Pa. P.U.C. No. 7 which has been found to be unjust, unreasonable, and therefore, unlawful.

2. Columbia Water Company shall file detailed calculations with its water tariff filings, which shall demonstrate to this Commission's satisfaction that the filed rates comply with the proof of revenues, in the form and manner customarily filed in support of compliance tariffs.

3. Columbia Water Company shall comply with all directives, conclusions, and recommendations contained in this Commission's Opinion and Order that are not the subject of individual ordering paragraphs as if they were the subject of specific ordering paragraphs.

4. Columbia Water Company shall allocate the authorized increase in operating revenues to General Metered and Fire Protection Service rates in the manner set forth in this Order.

5. The Complaints filed by various parties to this proceeding at Docket Number R-2023-3040258 are granted in part and denied in part, to the extent consistent with this Commission's Opinion and Order.

Appendix E
List of Evidence Offered by
the Office of Consumer Advocate

LIST OF EVIDENCE OFFERED BY THE OFFICE OF CONSUMER ADVOCATE

OCA Statement 1, Direct Testimony of Jennifer L. Rogers

Schedules JLR-1 through JLR-18

Appendix A

OCA Statement 1SR, Surrebuttal Testimony of Jennifer L. Rogers

Surrebuttal Schedules JLR-1 through JLR-18

OCA Statement 2, Direct Testimony of David J. Garrett

Appendices A and B

Schedules DJG-1 through DJG-16

OCA Statement 2SR, Surrebuttal Testimony of David J. Garrett

OCA Statement 3, Direct Testimony of Jerome D. Mierzwa

Schedules JDM-1 and JDM-2

OCA Statement 3R, Rebuttal Testimony of Jerome D. Mierzwa

Schedules JDM-1 Revised and JDM-2 Revised

OCA Statement 3SR, Surrebuttal Testimony of Jerome D. Mierzwa[1]

Schedules JDM-1 Surrebuttal and JDM-2 Surrebuttal

Schedules JDM-3 through JDM-4

OCA Statement 4, Direct Testimony of Terry L. Fought

Appendix A

Schedules TLF-1 through TLF-5

OCA Statement 4SR, Surrebuttal Testimony of Terry L. Fought

Schedule TLF-SR1

---

[1] OCA St. 3SR and Schedules JDM-1 and JDM-2 were corrected on the record at the hearing on August 28, 2023 and also by Errata admitted into the record by Interim Order issued on September 7, 2023 in this matter.