

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pike County Light & Power :
Company for Approval of Default Service : P-2023-3039927
Plan and Waiver of Commission Regulations :

RECOMMENDED DECISION

(NON-PROPRIETARY VERSION)

Before
Mark A. Hoyer
Deputy Chief Administrative Law Judge

I. INTRODUCTION

This Recommended Decision recommends that the Joint Petition for Approval of Unanimous Settlement (Joint Petition or Settlement) be approved in its entirety without modification because it is in the public interest and supported by substantial evidence. This decision finds that the Settlement complies with the relevant sections of the Public Utility Code regarding default service plans and is consistent with Commission’s regulations promoting settlements.

II. HISTORY OF THE PROCEEDING

On April 13, 2023, Pike County Light & Power (Pike or Petitioner) filed a Petition for Approval of its Default Service Plan and Waiver of Commission Regulations (Petition). The Petition was filed pursuant to Section 2807(e) of the Public Utility Code and 52 Pa. Code §§ 54.181-54.190. Through its Petition, Pike is seeking approval from the Pennsylvania Public Utility Commission (Commission) regarding its proposed default service plan (DSP) for June 1, 2024 through May 31, 2027, and certain waivers related to default

service. Notice of the Petition was published in the Pennsylvania Bulletin on May 13, 2023, with an Answer/Protest date of June 9, 2023.

On May 3, 2023, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention, Public Statement, Notice of Appearance, and Verification. The OSBA separately filed an Answer to the Petition on June 7, 2023. On May 19, 2023, the Office of Consumer Advocate (OCA) filed an Answer, Notice of Intervention, Public Statement, and Verification.

On April 26, 2023, an Initial Telephonic Prehearing Conference Notice was issued scheduling a prehearing conference for June 15, 2023. On May 16, 2023, a Prehearing Conference Order was issued.

On June 8, 2023, Pike filed an unopposed Motion for Protective Order seeking to limit the availability of proprietary information. No party objected to the Motion for a Protective Order.

A prehearing conference was held as scheduled on June 15, 2023. Pike, OCA and OSBA were represented at the conference.

On June 21, 2023, a Prehearing Order was issued setting forth a litigation schedule and modifying the Commission's discovery rules.

On June 23, 2023, a Protective Order was issued.

On August 24, 2023, the parties agreed to waive cross examination and requested cancellation of the evidentiary hearing scheduled for August 30, 2023.

On August 25, 2023, Pike informed the undersigned that the parties had reached a settlement in full and indicated that it would file the Settlement with Statements in Support by September 22, 2023, in accordance with the Prehearing Order.

On August 29, 2023, the Joint Petitioners filed a Joint Stipulation for the Admission of Testimony and Exhibits into the Evidentiary Record.

On August 29, 2023, the evidentiary hearing scheduled for August 30, 2023, was canceled. A Cancellation Notice was issued on August 30, 2023.

On August 31, 2023, the undersigned issued an Interim Order Granting Joint Stipulation for Admission of Testimony and Exhibits.

On September 22, 2023, a Joint Petition for Unanimous Settlement was filed.

On October 5, 2023, an Interim Order Closing the Record was issued.

III. TERMS AND CONDITIONS OF THE SETTLEMENT

The Joint Petition is a 12-page document signed by all the parties in this proceeding: Pike, OCA and OSBA. Appendix A is a chart of the hedge procurement strategy and schedule agreed to by the Joint Petitioners. Appendix B is the Statement in Support of Pike County Light & Power Company. Appendix C is the Statement in Support of the Office of Consumer Advocate. Appendix D is the Statement in Support of the Office of Small Business Advocate. The essential terms of the Joint Petition for Unanimous Settlement are set forth on pages 5-8 in paragraphs numbered 21-25 in the Settlement. These terms are stated below verbatim and, for ease of reference, retain the same numbers and headings as they appear in the Settlement.

A. PIKE'S DEFAULT SERVICE PLAN FOR YEARS JUNE 2024 TO MAY 2027

21. Pike's Default Service Plan for June 2024 – May 2027 ("Plan") is approved subject to the following modifications to the Default Service Plan.

22. Pike will implement the following hedging procurement strategy and schedule as set forth below and in Appendix A: **[BEGIN HIGHLY CONFIDENTIAL]**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL].

23. Pike will continue to seek additional counterparties for its hedging program. Pike will report to OCA and OSBA any additional counterparties obtained within 60 days of obtaining such counterparty.

24. Pike’s proposed Alternative Energy Portfolio Standard (“AEPS”) credit procurement as described in its testimony is approved, which states:

Pike proposes to continue its current practice and solicit various brokers and counterparties to procure credits. It will compare prices offered for credits and purchase sufficient credits to meet the AEPS requirements from the supplier with the lower offer price. Pike may increase the frequency of purchasing credits to a quarterly basis where it is more economical for customers. I also note that Pike has obtained AEPS credits directly from brokers in the past (2017), and for 2018, AEPS credits were procured with the help of Enel X. Pike utilized Enel X for procurement assistance in 2019 and 2020. Additionally, for its 2021-2024 Plan, AEPS credits were procured with the help of Enel X. Pike may utilize either strategy for its 2024-2027 Plan. PCLP Statement No. 1 at 13:10-18.

25. Pike’s proposed waivers are approved:

- a. 52 Pa. Code § 54.185(e)(2) (plan identifying the schedules and technical requirements of competitive bid solicitations and spot market energy purchases).
- b. 52 Pa. Code § 54.185(e)(6) (copies of agreements or forms to be used in the procurement of electric generation supply for default service customers).
- c. Partial waiver of 52 Pa. Code 69.1805, 69.1805(1), 69.1805(2) and 69.1805(3) (inclusion of short and long-term contracts in procurement mix and tailoring procurement to customer classes).
- d. 52 Pa. Code §69.1807(3) (competitive bid solicitation process guidelines).

Settlement, pp. 5-8.

The Settlement is also conditioned upon the standard settlement conditions. For example, if the Commission modifies the Settlement, the parties reserve the right to withdraw

from the Settlement and proceed with litigation. The Settlement is also conditioned on it not being cited as precedent in any future proceeding, except to the extent required to implement the settlement. The Settlement also does not preclude any party from taking other positions in proceedings involving other public utilities. If the Settlement is recommended for approval without modifications the parties agree to waive the right to file exceptions. Settlement pp. 8-9.

IV. DISCUSSION

A. Legal Standard

Pike has the burden of proof in this proceeding to establish that it is entitled to the relief it is seeking. 66 Pa.C.S. § 332(a). Pike must establish its case by a preponderance of the evidence. Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992). In this case, Pike requests that the Commission approve its default service filing and, therefore, has the burden of proving that the plan satisfies all applicable legal requirements for it to be approved.

Pike's default service implementation plan was filed pursuant to Section 2807(e) of the Public Utility Code, 66 Pa.C.S. § 2807(e). Default service is the basic service that Pennsylvania's electric customers are entitled by law to receive if they do not switch to an alternative retail electric generation supplier (EGS), or if their alternative EGS fails to provide them with service. Pike is the default service provider in its service territory and, therefore, must offer default service that meets specific legal requirements. In general, Act 129 of 2008, 66 Pa.C.S. §§ 2807(e)(3.1)-(3.7), seeks to ensure the availability to all Pennsylvanians of "adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account any benefits of price stability over time." *See, Preamble to Act 129*, 2008 Pa. Legis. Serv. Act 2008-129 (H.B. 2200). Further, Act 129 declares that it is in the public interest to adopt "energy procurement requirements designed to ensure that electricity obtained reduces the possibility of electric price instability, promotes economic growth and ensures affordable and available electric service to all residents." *Id.*

Furthermore, Section 2807(e) requires that the default service provider follow a Commission-approved competitive procurement plan, that the competitive procurement plan include auctions, requests for proposal, and/or bilateral agreements, and that the plan include a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts designed to ensure adequate and reliable service at the least cost to customers over time. 66 Pa.C.S. §§ 2807(e)(3.1) and (3.2). Act 129 also requires that the Commission consider whether the default service provider's plan includes prudent steps necessary to negotiate favorable generation supply contracts and prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term and spot market basis, and that neither the default service provider nor its affiliated interest has withheld from the market any generation supply in a manner that violates federal law. See, 66 Pa.C.S. § 2807(e)(3.7); see also, 52 Pa.Code §§ 54.181-54.189 and 69.1802-69.1816.

In this case, the parties submitted a settlement of all issues. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a "burden of proof" standard, as is utilized for contested matters. Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water, Docket No. R-2010-2179103 (Opinion and Order entered July 14, 2011) (Lancaster). Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. Id., citing, Warner v. GTE North, Inc., Docket No. C-00902815 (Opinion and Order entered April 1, 1996) (Warner); Pa. Pub. Util. Comm'n. v. CS Water & Sewer Assocs., 74 Pa. PUC 767 (1991). In addition, the Commission has held that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc., Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

Finally, all decisions of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 194 Pa. Super. 278, 166 A.2d 96 (1961); and Murphy v. Pa. Dept. of Pub. Welfare, White Haven Cntr., 85 Pa.Cmwlt. 23, 480 A.2d 382 (1984).

B. Public Interest Analysis

According to the Joint Petitioners, this Settlement was achieved after an extensive investigation of Pike's filing, including informal and formal discovery and the submission of direct, rebuttal, and surrebuttal testimony. Settlement, p. 10, ¶ 34.

1. Pike's Position

According to Pike, the Settlement resolves all issues in this proceeding regarding Pike's Default Service Plan (DSP), including default supply procurement, continuation and increase of financial hedging, Alternative Energy Portfolio Standards credit procurement, and various requested waivers of related regulations. Pike St. in Support, p. 1.

Pike fully supports the Settlement. The Settlement is the result of a detailed examination of Pike's proposed DSP Plan, extensive discovery by multiple parties, multiple rounds of testimony and reasonable compromise by the Parties. Pike St. in Support, p. 8.

a. Default Supply Procurement and Hedging

Pike's default supply procurement has been a contentious issue in its past DSP proceedings. Pike is unique among Pennsylvania Electric Distribution Companies (EDCs) because of its modest size, significant Electric Generation Supplier (EGS) penetration rate, as well as the fact that Pike is affiliated with NYISO and not PJM. PCLP St. No. 1 at 4:19-20. Pike

serves approximately 5,243 retail customers. PCLP St. No. 1 at 4:3-4. According to Pike, the Commission has recognized that these unique circumstances “make it difficult for the Company to negotiate favorable, long-term contracts in a manner that would allow the Company to satisfy its default service obligations of providing service to customers at ‘least cost to consumers over time,’ as is required by Act 129.” Petition of Pike County Light & Power Company for Approval of its Default Service Implementation Plan, Docket No. P-2015-2490141 (Order entered Mar. 10, 2016), slip op. at 12. Thus, the Commission has in Pike’s prior default service proceedings approved Pike’s acquisition of default supply from solely the NYISO spot market. Pike asserts that these circumstances have not changed. Pike still has a significant supplier penetration rate, modest load, and acquires all of its supply from Orange and Rockland from the NYISO spot market pursuant to its Second Electric Supply Agreement (ESA II), which the Commission approved on August 26, 2021, at Docket No. P-2021-3025829. Petition of Pike County Light & Power Company for Approval of its Electric Supply Agreement II, Docket No. P-2021-3025829, et al. (Order entered Aug. 26, 2021); Pike St. in Support, pp. 2-3.

As part of the Commission-approved settlement with the OCA and OSBA in the Acquisition proceeding, Pike agreed to complete an alternative supply study (Study). PCLP St. No. 1 at 6:3-5. One of the options that the Study explained was engaging in a financial hedge for a portion of Pike’s load to decrease price volatility. According to Pike, price volatility was a major concern of the OCA in past Pike DSP Proceedings. PCLP St. No. 1 at 6:11-14; Pike St. in Support, p. 3.

As explained in Pike’s testimony, Pike’s 2018 DSP proceeding produced a settlement where Pike would undertake a financial hedging strategy as part of its default service procurement. PCLP St. No. 1 at 6:16-18. Pike asserts that the financial hedging allowed Pike to bring a level of price stability that is not present with spot market only purchases. Subsequently, Pike’s 2020 DSP Proceeding produced a settlement allowing Pike to continue to engage in such hedges under slightly modified terms, such as hedging a greater portion of the default service load and including an overhanging contract to give rate payers additional price protections. PCLP St. No. 1 at 7:2-8; Pike St. in Support, p. 3.

In the instant proceeding, Pike filed its DSP proposing a three-year plan (June 2024 – May 2027) under terms that were substantially similar to the Company’s financial hedging strategy from its 2018 and 2020 DSP proceedings, including adding an overhanging procurement similar to what was agreed upon in the previous proceeding. PCLP St. No. 2 at 7:16-20. The Company decided to continue its financial hedging strategy to build price stability by reducing the amount of energy purchased on the spot market over time and avoiding single point market exposure, i.e., making a fixed price commitment for 100% of the overall target hedge percentage (%) at a single point in time. PCLP St. No. 2 at 4:12-15; Pike St. in Support, p. 4.

In this proceeding, Pike asserts that OCA agreed that the hedging plan is working. Specifically, OCA Witness Serhan Ogur testified that Pike’s financial hedging plan has been functioning as intended thereby reducing volatility in Pike’s default service charges. OCA St. No. 1 at 10:9-11. However, in an effort to improve the hedging plan, OCA recommended, inter alia, the following changes: **[BEGIN HIGHLY CONFIDENTIAL]**.



[END HIGHLY CONFIDENTIAL]. The OCA subsequently updated its recommended procurement schedule in its surrebuttal testimony to account for a recent Company procurement. OCA St. 1SR at 2:19-22; Pike St. in Support, p. 4.

For its part, OSBA raised a few concerns with the Company's proposed procurement plan. Specific to the hedging plan, OSBA was concerned over [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL]; Pike St. in Support, pp. 4-5.

Pike asserts that the Settlement adequately addresses the concerns of OCA and OSBA by incorporating their proposed recommendations into the DSP Plan. The Settlement incorporates OCA's proposed hedging procurement schedule, as revised and set forth in its Surrebuttal testimony (Settlement ¶¶ 22(a)-(d)), incorporates the ability to [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL]; Pike St. in Support, p. 5.

Thus, according to Pike, the instant settlement continues a program that has been providing price stability to customers with continued improvements that benefit customers. This includes increasing the percentage of default service load that is hedged, increasing the delivery length of the hedge, and allowing for [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED]

[END HIGHLY CONFIDENTIAL]; Pike St. in Support, p. 5.

Pike asserts that certain pricing protections in the Highly Confidential Settlement also protect consumers from paying too much for the benefit of price stability. Pursuant to the

Settlement, if bids are not within a certain threshold, Pike will not accept them and will try to procure the hedge again within those parameters. If the market is such that price stability cannot be provided at a reasonable cost, no hedge will occur and Pike's DSP procurement will essentially be the same as it has been in the past. Pike St. in Support, pp. 5-6.

b. Counterparties

OSBA also raised a concern related to the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [END HIGHLY CONFIDENTIAL]. Pike St. in Support, p. 6.

In addition, the Settlement includes a provision that Pike will continue to seek additional counterparties for its hedging program and that it will report to OCA and OSBA any additional counterparties obtained within 60 days of obtaining such counterparty. Thus, Pike submits that the Settlement reasonably addresses OSBA's concern. Pike St. in Support, p. 6.

c. Alternative Energy Portfolio Standards (AEPS) Credit Procurement

No Parties challenged Pike's AEPS credit procurement proposals. Regarding AEPS credit procurement:

Pike proposes to continue its current practice and solicit various brokers and counterparties to procure credits. It will compare prices offered for credits and purchase

sufficient credits to meet the AEPS requirements from the supplier with the lower offer price. Pike may increase the frequency of purchasing credits to a quarterly basis where it is more economical for customers. I also note that Pike has obtained AEPS credits directly from brokers in the past (2017), and for 2018, AEPS credits were procured with the help of Enel X. Pike utilized Enel X for procurement assistance in 2019 and 2020. Additionally, for its 2021-2024 Plan, AEPS credits were procured with the help of Enel X. Pike may utilize either strategy for its 2024-2027 Plan. PCLP Statement No. 1 at 13:10-18; Pike St. in Support, pp. 6-7.

d. Waiver of Regulations

The Commission has granted each of the waivers Pike requested in past DSP proceedings, and Pike has requested similar waivers in the instant proceeding. The parties have agreed to the following waivers of regulations:

- a. 52 Pa. Code § 54.185(e)(2) (plan identifying the schedules and technical requirements of competitive bid solicitations and spot market energy purchases).
- b. 52 Pa. Code § 54.185(e)(6) (copies of agreements or forms to be used in the procurement of electric generation supply for default service customers).
- c. Partial waiver of 52 Pa. Code 69.1805, 69.1805(1), 69.1805(2) and 69.1805(3) (inclusion of short and long-term contracts in procurement mix and tailoring procurement to customer classes).
- d. 52 Pa. Code §69.1807(3) (competitive bid solicitation process guidelines).

2. OCA's Position

OCA adopts the background set forth in Paragraphs 1-19 of the Joint Petition. By way of further background, in Direct Testimony, OCA Witness Dr. Serhan Ogur addressed three aspects of Pike's proposed DSP: (1) the functioning of Pike's current hedging strategy (2) Pike's default service loads and retail competition in the Company's service territory and (3) Pike's proposed hedging strategy. OCA St. in Support, p. 2.

for Pike, and with slight modifications to account for Pike securing an interim hedge, Dr. Ogur's primary recommendation is adopted in the Settlement. OCA St. in Support, pp. 4-5.

Paragraph 22 of the Settlement reflects Pike's acceptance of OCA's key recommendations with respect to its financial hedging activity. More specifically, the Settlement provides that Pike will implement the hedging strategy as subject to the provisions identified in the Settlement, and in Appendix A. Because the Settlement adopts the hedging strategy OCA recommended to protect default service customers from price volatility, OCA supports these terms and avers that they are in the public interest. OCA St. in Support, p. 5.

The Settlement also provides that Pike may [BEGIN CONFIDENTIAL]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]. OCA St. in Support, pp. 6-7.

b. Counterparties

OCA asserts that Paragraph 23 of the Settlement memorializes Pike’s commitment to continue to seek additional counterparties for its hedging program. The Company will report to OCA and OSBA any additional counterparties within sixty (60) days of entering into any agreements. In testimony, OSBA recommended that [BEGIN CONFIDENTIAL] [REDACTED] [REDACTED] [END CONFIDENTIAL]. OSBA Highly Confidential Statement No. 1 at. 4-5; OCA St. in Support, p. 7.

OCA Witness Ogur agreed with some of OSBA’s concerns regarding [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END
CONFIDENTIAL]. OCA supports Pike's commitment to [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [END CONFIDENTIAL],

OCA supports this term of the Settlement. OCA St. in Support, p. 7.

c. Alternative Energy Portfolio Standards (AEPS) Credit Procurement

The Settlement recognizes that Pike will continue to meet its AEPS credit procurement requirements by utilizing a competitive solicitation process dictated by market conditions. Although OCA did not submit testimony regarding Pike's AEPS compliance proposal to continue its current process, OCA reviewed it to ensure that Pike is meeting all compliance standards at reasonable prices. As OCA did not identify any concerns with Pike's proposal to continue its AEPS credit procurement process, OCA supports its continuance as memorialized in the Settlement. OCA St. in Support, p. 8.

d. Waiver of Regulations

Pursuant to the Settlement, Pike would again be permitted to have the following requested waivers in place:

- a. 52 Pa. Code § 54.185(e)(2) (plan identifying the schedules and technical requirements of competitive bid solicitations and spot market energy purchases);
- b. 52 Pa. Code § 54.185(e)(6) (copies of agreements or forms to be used in the procurement of electric generation supply for default service customers);
- c. 52 Pa. Code § 69.1805(1)- 52 Pa. Code § 69.1805(3) (policy statement on inclusion of short term and long term contracts in procurement mix and tailoring procurement to customer classes); and
- d. 52 Pa. Code § 69.1807(3) (competitive bid solicitation process guidelines).

As noted in Pike’s DSP Petition, the enumerated waivers were granted by the Commission in prior Orders issued in 2019 and in 2021. Petition at 8-9. OCA reviewed Pike’s requested waivers to determine whether they were reasonable, necessary, and consistent with Pike’s DSP obligations. OCA did not identify any issues, and as the waivers are necessary to provide Pike with the flexibility to maximize a procurement strategy that will mitigate price volatility, OCA supports the grant of the identified waivers. OCA St. in Support, p. 8.

3. OSBA’s Position

OSBA supports the Settlement’s proposals as just and reasonable resolutions of the issues. According to OSBA, the Settlement addresses the two critical issues set forth in OSBA’s testimony. First, the Settlement requires Pike to establish a written plan with metrics and guide points for the execution of its hedging program. OSBA asserts that this should support the goal of reducing the volatility of supply prices at a reasonable implementation cost, which will be a significant and material benefit for the Company’s small businesses. OSBA St. in Support, pp.3-4.

Second, the Settlement requires Pike to [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED] [END

CONFIDENTIAL], likely providing better and more consistent pricing for all of Pike’s ratepayers, including the Company’s small business customers. OSBA St. in Support, p. 3.

a. Default Supply Procurement and Hedging

Based on OSBA’s review of Pike’s proposed hedging plan and past implementation activities, OSBA identified several concerns. In particular, OSBA witness Mark Ewen expressed concern that the Company and its consultant [BEGIN CONFIDENTIAL]

[REDACTED] [END

CONFIDENTIAL] OSBA Statement No. 1, at 3-4. Although OSBA is supportive of efforts to reduce price volatility for small business customers, these efforts must be implemented under a consistently applied set of guidelines. OSBA St. in Support, pp. 1-2.

To address this issue, OSBA recommended that the Company formally incorporate into its written hedging plan metrics **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**, as outlined in response to OCA Interrogatory Set II, No. 5 (a) and (b). OSBA Statement No. 1-S, at 2-3; OSBA St. in Support, p. 2.

OSBA also recommended that, regardless of any established annual transaction windows within the hedging plan, the Company should **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**. OSBA Statement No. 1-S, at 3. According to OSBA, the intention of these guideposts, **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**, is to ensure that hedging transactions are completed in consistent fashion period after period, with reasonable bounds on **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**. OSBA St. in Support, p. 2.

These recommendations of OSBA have been incorporated into the Settlement. Settlement, Paragraph 22.

b. Counterparties

At the time of submission of counterparty direct testimony, OSBA witness Ewen noted that the Company had been able to **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**. Based on a review of transactions **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**

[REDACTED]
[REDACTED] [END CONFIDENTIAL]. OSBA strongly urged the Company to [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] to ensure competitive pricing of the hedging transactions. OSBA Statement No. 1, at 4-5; OSBA St. in Support, pp. 2-3.

In rebuttal testimony, the Company advised that [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]. OSBA Statement 1-S, at 1-2. In addition, the Settlement includes a continued commitment by the Company to secure additional counterparties for its hedging program, with notice to OSBA within 60 days of such an event. Settlement, Paragraph 23; OSBA St. in Support, p. 3.

c. Alternative Energy Portfolio Standards (AEPS) Credit Procurement

OSBA does not object to the Company's proposed AEPS credit procurement practices. Settlement, Paragraph 24; OSBA St. in Support, p. 3.

d. Waiver of Regulations

OSBA does not object to the Company's proposed regulatory waivers. Settlement, Paragraph 25; OSBA St. in Support, p. 3.

4. Recommendation

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

By definition, a “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest. In their supporting statements, the Joint Petitioners conclude, after extensive discovery and discussion, that this Settlement resolves contested issues in this case, fairly balances the interests of the company and its ratepayers, is in the public interest, and is consistent with the requirements of the Public Utility Code.

In reviewing the settlement terms and the accompanying statements in support, the Settlement provides sufficient information to support the conclusion the settlement terms are in the public interest. I agree with the signatory parties that the settlement terms described above are both reasonable and in the public interest. The Commission should approve these provisions of the Settlement without modification.

Pike provides electricity to approximately 5,243 retail customers in its service territory in Pike County, Pennsylvania. PCL&P St. 1 at 4:3-4. Electric generation suppliers provide generation services to approximately 20.61 percent of Pike’s customers. PCL&P St. 1 at 4:8-10. Pike receives all of its electricity through two 34.5 kV radial circuits that cross the Delaware River from Port Jervis, New York. PCL&P St. 1 at 4:11-12. Pike is unique among Pennsylvania EDCs as it is part of the NYISO control area, not the PJM control area. PCL&P St. 1 at 4:12-14, Settlement, p. 2.

The Settlement resolves all issues in this proceeding regarding Pike’s DSP, including default supply procurement, continuation and increase of financial hedging, Alternative Energy Portfolio Standards credit procurement, and various requested waivers of related regulations.

The Settlement helps achieve the goals of Act 129 of 2008. Through Act 129, the General Assembly found it to be the policy of the Commonwealth to promote stability in the price of electric service. The Preamble to Act 129 provides that it is the objective of the

Commonwealth to ensure the availability to all Pennsylvanians of “adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account any benefits of price stability over time.” See, Preamble to Act 129. Act 129 further declares that it is in the public interest to adopt “energy procurement requirements designed to ensure that electricity obtained reduces the possibility of electric price instability, promotes economic growth and ensures affordable and available electric service to all residents.” Id. In addition, Section 2807(e) requires that the default service provider follow a Commission-approved competitive procurement plan, that the competitive procurement plan include auctions, requests for proposal, and/or bilateral agreements, and that the plan include a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts designed to ensure adequate and reliable service at the least cost to customers over time. 66 Pa.C.S. §§ 2807(e)(3.1) and (3.2).

The Commission has recognized that Pike’s unique circumstances in terms of size, supplier penetration rate and the Company’s affiliation with NYISO “make it difficult for the Company to negotiate favorable, long-term contracts in a manner that would allow the Company to satisfy its default service obligations of providing service to customers at ‘least cost to consumers over time,’ as is required by Act 129.” Petition of Pike County Light & Power Company for Approval of its Default Service Implementation Plan, Docket No. P-2015-2490141 (Order entered Mar. 10, 2016), slip op. at 12. Thus, the Commission has in Pike’s prior default service proceedings approved Pike’s acquisition of default supply from solely the NYISO spot market. These circumstances have not changed. Pike still has a significant supplier penetration rate, modest load, and acquires all of its supply from Orange and Rockland from the NYISO spot market pursuant to its Second Electric Supply Agreement (ESA II), which the Commission approved on August 26, 2021, at Docket No. P-2021-3025829. Petition of Pike County Light & Power Company for Approval of its Electric Supply Agreement II, Docket No. P-2021-3025829, et al. (Order entered Aug. 26, 2021).

Pike’s 2018 DSP proceeding produced a settlement where Pike would undertake a financial hedging strategy as part of its default service procurement. PCLP St. No. 1 at 6:16-18. The financial hedging allowed Pike to bring a level of price stability that is not present with spot

market only purchases. Subsequently, Pike's 2020 DSP Proceeding produced a settlement allowing Pike to continue to engage in such hedges under slightly modified terms, such as hedging a greater portion of the default service load and including an overhanging contract to give rate payers additional price protections. PCLP St. No. 1 at 7:2-8.

In the instant proceeding, Pike filed its DSP proposing a three-year plan (June 2024 – May 2027) under terms that were substantially similar to the Company's financial hedging strategy from its 2018 and 2020 DSP proceedings, including adding an overhanging procurement similar to what was agreed upon in the previous proceeding. PCLP St. No. 2 at 7:16-20. The Company decided to continue its financial hedging strategy to build price stability by reducing the amount of energy purchased on the spot market over time and avoiding single point market exposure, i.e., making a fixed price commitment for 100% of the overall target hedge percentage (%) at a single point in time. PCLP St. No. 2 at 4:12-15.

In this proceeding OCA agreed that the hedging plan is working. Specifically, OCA Witness Serhan Ogur testified that Pike's financial hedging plan has been functioning as intended thereby reducing volatility in Pike's default service charges. OCA St. No. 1 at 10:9-11. OCA made recommendations to improve the hedging plan and procurement schedule which were included in the Settlement and addressed OCA's concerns.

OSBA raised a few concerns with the Company's proposed procurement plan. The Settlement adequately addresses the concerns of OSBA by incorporating both OCA and OSBA's proposed recommendations into the DSP Plan.

The Settlement incorporates the OCA's proposed hedging procurement schedule, as revised and set forth in its Surrebuttal testimony (Settlement ¶¶ 22(a)-(d)), among other things. The Settlement continues a program that has been providing price stability to customers with continued improvements that benefit customers. This includes, among other things, increasing the percentage of default service load that is hedged and increasing the delivery length of the hedge. Certain pricing protections in the Settlement also protect consumers from paying too much for the benefit of price stability. Pursuant to the Settlement, if bids are not within a

certain threshold, Pike will not accept them and will try to procure the hedge again, within those parameters. If the market is such that price stability cannot be provided at a reasonable cost, no hedge will occur and Pike's DSP procurement will essentially be the same as it has been in the past.

The Settlement is also in the public interest and should be adopted without modification because the parties have agreed that various Commission regulations would be waived as part of the DSP. These regulations include Sections 54.185(e)(2), 54.185(e)(6), 69.1805, 69.1805(1), 69.1805(2), 69.1805(3) and 69.1807(3). These regulations provide requirements regarding procurement policies and customer switching.

Section 54.185 of the Commission's regulations governs requests for waivers of default service plans. This Section provides:

§ 54.185. Default service programs and periods of service.

(g) DSPs shall include requests for waivers from the provisions of this subchapter in their default service program filings. For DSPs with less than 50,000 retail customers, the Commission will grant waivers to the extent necessary to reduce the regulatory, financial or technical burden on the DSP or to the extent otherwise in the public interest.

52 Pa.Code § 54.185(g). No party opposed Pike's requested waivers. Pike qualifies for such waivers because it has less than 50,000 retail customers. As such, to the extent that granting the waivers is necessary to reduce the regulatory, financial or technical burden on Pike, or is otherwise in the public interest, I recommend that the Commission grant these waiver requests as part of this proceeding.

All of these provisions of the Settlement collectively support approving the Settlement without modification as being in the public interest.

V. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of, and the parties to, this proceeding. 66 Pa.C.S. § 2807.
2. Pike has the burden of proof in this proceeding to establish that it is entitled to the relief it is seeking. 66 Pa.C.S. § 332(a).
3. Pike must establish its case by a preponderance of the evidence. Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa.Cmwlth. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).
4. Commission policy promotes settlement. See 52 Pa. Code § 5.231.
5. A settlement lessens the time and expense that the parties must expend litigating a case and, at the same time, conserves precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.
6. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. Pa. Pub. Util. Comm'n v. York Water Co., Docket No. R-00049165 (Order entered Oct. 4, 2004); Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assocs., 74 Pa. PUC 767 (1991).
7. Act 129 of 2008 seeks to ensure the availability to all Pennsylvanians of “adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account any benefits of price stability over time.” Preamble to Act 129 of 2008.
8. Act 129 of 2008 declares that it is in the public interest to adopt “energy procurement requirements designed to ensure that electricity obtained reduces the possibility of

electric price instability, promotes economic growth and ensures affordable and available electric service to all residents.” Preamble to Act 129 of 2008.

9. Default service providers must follow a Commission-approved competitive procurement plan that includes auctions, requests for proposal, and/or bilateral agreements and a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts designed to ensure adequate and reliable service at the least cost to customers over time. 66 Pa.C.S. §§ 2807(e)(3.1) and (3.2).

10. A default service provider’s plan must include prudent steps necessary to negotiate favorable generation supply contracts, prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term and spot market basis and that neither the default service provider nor its affiliated interest has withheld from the market any generation supply in a manner that violates federal law. 66 Pa.C.S. § 2807(e)(3.7).

11. One purpose of the Electricity Generation Customer Choice and Competition Act is to modify existing legislation and regulations and to establish standards and procedures in order to create direct access by retail customers to the competitive market for the generation of electricity while maintaining the safety and reliability of the electric system for all parties. 66 Pa.C.S. § 2802(12).

12. For default service providers with less than 50,000 retail customers, the Commission will grant waivers to the extent necessary to reduce the regulatory, financial or technical burden on the default service provider or to the extent otherwise in the public interest. 52 Pa. Code § 54.185(g).

13. The Joint Petition for Approval of Unanimous Settlement submitted in this proceeding on September 22, 2023 should be adopted in its entirety without modification because it is in the public interest and consistent with Commission regulations regarding settlements.

