



## INTRODUCTION

1. OTS is charged with the representation of the public interest in rate-related proceedings held before the Commission. Consequently, in negotiated settlements, it is incumbent upon OTS to ensure that the public interest is served and to **quantify** to what extent amicable resolution of any such proceeding will benefit the public interest. Based upon OTS's analysis of the originally filed Supplement No. 2, to Tariff Electric – Pa. P.U.C. No. 4, accompanying supportive documents, discovery responses, and expert testimony submitted throughout this proceeding, acceptance of this proposed Settlement is in the public interest. As such, OTS **recommends** that Administrative Law Judges (“ALJs”), **Marlane R. Chestnut** and **Christopher Pell**, and the Commission approve the Partial Settlement in its entirety.

## BACKGROUND

2. OTS adopts and incorporates the background set forth in the Partial Settlement.<sup>2</sup>

## DISCUSSION

3. The Settlement represents a balance of the interests of the Company and its customers. Accordingly, for the reasons presented in the Partial Settlement and those further articulated below, OTS maintains that the Partial Settlement is in the public interest and requests that it be approved by the **ALJs** and the Commission.

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<sup>2</sup> Partial Settlement, pp. 2-4.

**a. Revenue Requirement (Settlement ¶ 7(A))**

Under the terms of the Partial Settlement, PECO would be permitted to implement rates for electric service designed to recover an increase in annual distribution revenues of \$198.3 (20.5%) million and an increase in annual transmission revenues of \$26.7 million (15.1%). This revenue increase represents a reduction of approximately \$91.0 million from the requested of \$289.7 (31.5%) million annual increase in distribution revenues. Based on the OTS analysis of various operations and maintenance expenses and other revenue related items, the requested \$289.7 million increase to distribution revenues represents an unreasonable projection of the Company's future financial outlook. OTS submits that the combined \$225.0 rate increase provided by the Partial Settlement will permit the Company to recover its prudently incurred expenses and produce a reasonable rate of return.

**b. Universal Services**

The Partial Settlement implements various adjustments to the Company's CAP program that are designed to further the public interest. The Joint Petitioners have agreed to marginally reduce the affordability targets originally proposed by the Company for Program Tiers D, D1, E and E1 from 90% CAP affordability to 88%. This adjustment reduces the Reconcilable CAP Costs recovered from non-CAP ratepayers by approximately \$4 million, from \$84,672,000 to \$80,707,000. This proposal is in the public interest as non-CAP customers experience significant cost savings while the most vulnerable CAP customers in Program Tiers A-C benefit from the 90% CAP affordability target.

The Partial Settlement also incorporates a proposal for an adjustable Maximum CAP Credit to ensure that the Company imposes appropriate cost containment measures. The Company will establish base level Maximum Electric Service Credit Factors of \$700 for **Rate R** service and \$1800 for Rate RH service in conformance with the Commission's Proposed Order in the CAP Policy Statement at Docket No. M-00072036. Through December 31, 2010, the Company will temporarily adopt the proposal of OTS Witness Amanda Gordon and adjust the Maximum Electric Service Credit Factors by using the Consumer Price Index. Following January 1, 2011, the Company will adopt a permanent adjustment mechanism utilizing the Default Service Pricing Adjustment Factor **described** in the Exhibit 4 to the Partial Settlement. This adjustment mechanism will increase or decrease the Maximum Electric Service Credit Factors proportionately with the current supply costs. The adjustment protects ratepayers from inflated or inadequate cost containment factors and is in the public interest.

In addition to the affordability targets and the cost containment adjustments, the Joint Petitioners have also agreed to several other modifications delineated within Exhibit 4 to the Partial Settlement. Collectively, these modifications are in the public interest and should be adopted by the ALJ and further approved by the Commission.

**c. Unbundling Generation-Related Uncollectibles (Settlement ¶ 7(J))**

OTS and the **Company were** unable to resolve the issue of unbundling generation-related uncollectibles expense in settlement discussions. In contrast to the Company's proposal to recover generation-related uncollectibles expenses solely through distribution

rates, OTS believes that unbundling such expenses is in the public interest. Accordingly, this issue is reserved for hearing, briefing and resolution by the **ALJs** and the Commission.

4. OTS avers that the Partial Settlement is in the public interest. The resolution of a majority of issues in this case by settlement rather than litigation will avoid the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense.

5. OTS further submits that acceptance of the Partial Settlement will negate the need for an evidentiary hearing and the filing of possible appeals. Additionally, acceptance of this Partial Settlement will greatly reduce the scope of Main and Reply Briefs and any Exceptions or Reply Exceptions.

6. The Partial Settlement is conditioned upon the Commission's approval of all terms contained therein. Should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Partial Settlement, it may be **withdrawn** by any of the Joint Petitioners provided therein.

7. OTS's agreement to settle the issues addressed by the Partial Settlement without any admission or prejudice to any position that OTS might adopt during subsequent litigation in the event that the Partial Settlement is rejected by the Commission or otherwise properly withdrawn by any other parties to the instant proceeding.

8. If the ALJ recommends that the Commission adopt the Partial Settlement **as** proposed, OTS agrees to waive the filing of Exceptions related to any issue other than

that specifically reserved for briefing in paragraph 3(c) of this Statement. However, **OTS** has not waived its right to file Exceptions with respect to any modifications to the terms and conditions of the Settlement, or any additional matters, that may be proposed by the **ALJ** in the Recommended Decision. **OTS** also reserves the right to file Reply Exception:: to any Exceptions that may be filed by Company or any other Joint Petitioner.

WHEREFORE, the Commission's Office of Trial Staff represents that it supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judges **Marlane R. Chestnut** and **Christopher Pell** recommend, and the Commission subsequently approve, the foregoing Joint Petition for Partial Settlement of Rate Investigation, including all terms and conditions contained therein.

Respectfully submitted,



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