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File #: 2275/143230

September 29, 2010

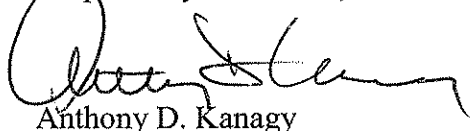
Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: Pennsylvania Public Utility Commission, et al. v. The York Water Company**  
**Docket Nos. R-2010-2157140, C-2010-2178038 and C-2010-2181763**

Dear Secretary Chiavetta:

Enclosed for filing please find the Settlement Petition for the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully Submitted,



Anthony D. Kanagy

ADK/skr

Enclosure

cc: Honorable David A. Salapa  
Certificate of Service  
Kathleen M. Miller

## CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

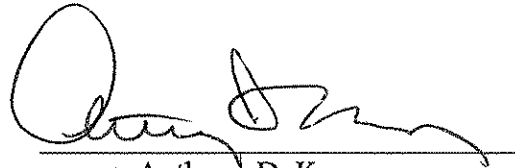
### VIA E-MAIL AND FIRST CLASS MAIL

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400 North Street, 2nd Floor West  
PO Box 3265  
Harrisburg, PA 17105-3265

Date: September 29, 2010



Anthony D. Kanagy

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
	:	Docket Nos. R-2010-2157140
OFFICE OF CONSUMER ADVOCATE	:	C-2010-2178038
	:	C-2010-2181763
OFFICE OF SMALL BUSINESS ADVOCATE	:	
	:	
V.	:	
	:	
THE YORK WATER COMPANY	:	

**SETTLEMENT PETITION**

TO ADMINISTRATIVE LAW JUDGE DAVID A. SALAPA:

**I. INTRODUCTION**

The Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), and The York Water Company (“York Water” or the “Company”), all parties in the above-captioned proceeding (hereinafter collectively referred to as the “Joint Petitioners”), hereby join in this “Settlement Petition” (“Settlement”) and respectfully request that Administrative Law Judge David A. Salapa (the “ALJ”) and the Commission approve this Settlement without modification.

As set forth and explained below, the Joint Petitioners have agreed to a settlement of all issues in the above-captioned proceeding. The Settlement provides for increases in rates, as set forth in the form of tariff supplement attached as Appendix “A” and the proof of revenues attached as Appendix “B” to this Petition, designed to produce an increase in annual base-rate operating revenues of \$3,400,000.

## **II. BACKGROUND**

In support of this Settlement, the Joint Petitioners state the following:

1. York Water is a public utility subject to the Commission's regulatory jurisdiction. York Water provides water service in the City of York, surrounding communities in York County and portions of Adams County.
2. On May 14, 2010, York Water filed with the Commission Supplement No. 94 to its Tariff Water - Pa. P.U.C. No. 14 ("Supplement No. 94"), together with supporting data for a future test year ending December 31, 2010, pursuant to Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d). Supplement No. 94 proposed an increase in base-rate revenues of \$6,220,428 excluding the effect of the Distribution System Improvement Charge and State Tax Adjustment Surcharge.
3. On May 25, 2010, the OCA filed a Formal Complaint, Public Statement and Notice of Appearance in the proceeding.
4. On May 26, 2010, OTS filed its Notice of Appearance.
5. On June 8, 2010, OSBA filed a Complaint, Verification, Public Statement and Notice of Appearance in the proceeding.
6. On June 16, 2010, the Commission initiated an investigation of York Water's proposed general rate increase, and suspended the increase by operation of law until February 13, 2011, unless otherwise directed by Order of the Commission.
7. The Joint Petitioners undertook formal and informal discovery, both prior to and subsequent to the initial prehearing conference.
8. An initial prehearing conference was held on July 8, 2010, before the ALJ. Parties who participated in the prehearing conference filed prehearing memoranda identifying potential issues and witnesses. A schedule for hearings was established.

9. OTS, OCA and OSBA submitted direct testimony on August 10, 2010. In addition, OCA submitted a corrected OCA St. No. 1 on August 16, 2010.

10. The Joint Petitioners held several settlement conferences. As a result of these conferences and the efforts of the Joint Petitioners to examine the issues raised by the proceedings, a Settlement in Principle was achieved by the Joint Petitioners prior to the date for submission of rebuttal testimony by the parties. On September 2, 2010, the Joint Petitioners advised the ALJ of the Settlement in Principle, and at the request of the Joint Petitioners, the ALJ suspended the procedural schedule.

11. The Joint Petitioners have been able to agree to a base rate increase covering all issues in the proceeding, and the Joint Petitioners have agreed to a revenue allocation and class rate designs to recover said increase. The Joint Petitioners are in full agreement that the Settlement is in the best interests of York Water and its customers. The Settlement is set forth in the following Section.

### **III. SETTLEMENT**

12. The Joint Petitioners agree as follows:

- a. The Settlement Rates are designed to produce \$3.4 million in additional annual base-rate operating revenue. York Water will be permitted to file a tariff supplement in the form attached hereto as Appendix "A" to become effective on the date of the Commission's Order approving the Settlement. Joint Petitioners will make all reasonable efforts to obtain approval of the Settlement on or before November 4, 2010.
- b. That the following amortizations are specifically approved and are reflected in the Settlement's base rate allowance:

Description	Amortization Period	Annual Amortization
Spring Grove Water Company and Borough of Spring Grove Positive Acquisition Adjustment	10 Years ending September 15, 2016	\$20,129
Feasibility Study to Estimate Cost of Customer Demand Study	5 Years from October 9, 2008	\$669

- c. The Joint Petitioners agree that they will not propose, in this or any future proceeding, to amortize or otherwise pass through to ratepayers the difference between depreciated original cost and acquisition cost (“negative acquisition adjustment”) with respect to the acquisitions of the Beaver Creek water system and the Asbury Pointe water system. The Joint Petitioners agree, and the Company requests the Commission to find, pursuant to Section 1327(e) of the Public Utility Code, 66 Pa.C.S. § 1327(e), that matters of “substantial public interest” exist with respect to such acquisitions, which justifies this ratemaking treatment.
- d. Rates under this Settlement will be presumed to provide for recovery of a cash contribution to pensions in the amount of \$1,592,601. York Water commits to deposit such amount into its pension trust on an annual basis during the period that rates under this Settlement remain effective, provided that such deposit does not exceed the deductibility limits under the Internal Revenue Code. If the minimum required contribution under Code Section 430 of the Internal Revenue Code exceeds \$1,592,601, York Water will contribute the minimum required contribution under Code Section 430. Until changed by agreement of the Joint Petitioners or

Commission Order, York Water will continue to account for differences between the cash contribution and the pension cost calculated pursuant to FASB ASC 715-20 and FASB ASC 715-30 as follows:

The Company has calculated and accrued on its books of account its pension liability incurred for its present employees under the terms of FASB ASC 715-20 and FASB 715-30. The Company makes cash contributions into qualified trusts to fund its pensions. The amount contributed is determined annually pursuant to actuarial studies that use criteria which may be different from criteria used under FASB ASC 715-20 and FASB 715-30. For financial reporting purposes, the Company will record the amount accrued in excess of the cash contribution as a regulatory (deferred) asset in accordance with FASB ASC 980 until the cash amount equals or exceeds the accrual. When the cash contribution exceeds the accrual amount, the Company will correspondingly reduce the regulatory (deferred) asset. For ratemaking purposes in the future, the Company will continue to use cash contributions plus pension administrative costs as the basis for its ratemaking claim for pension expense.

- e. Appendix "B" is the proof of revenues, which reflects the allocation of the increase to base rates among the rate classes as agreed to by the Joint Petitioners. The rate design incorporates the following elements:
  - (1) The 5/8" meter customer charge is kept at \$14.55/month and all other proposed meter customer charges are scaled back based upon the overall revenue reduction under the Settlement as compared to the Company's original request.
  - (2) The revenue allocation generally reflects a 50/50 split between the revenue allocation proposed by the Company and the OCA.
- f. The Settlement reflects a roll-in of 2010 state taxes and tax rates into base rates. In accordance with the provisions of 52 Pa. Code § 69.55, the STAS for York Water shall be established at 0% effective with the effective date of settlement rates in this proceeding.

- g. The DSIC for York Water shall be established at 0% effective with the effective date of settlement rates in this proceeding, and shall be subject to change effective April 1, 2011.
- h. The Company hereby withdraws its proposal for an Energy Cost Adjustment Mechanism.
- i. York Water agrees that it will not file with the Commission a tariff or tariff supplement proposing a general increase in rates earlier than April 26, 2012; provided, however, that the foregoing provisions shall not prevent York Water from filing a tariff or tariff supplement proposing a general increase in rates in compliance with Commission orders or in response to fundamental changes in regulatory policies or federal tax policies affecting York Water's rates.

13. The effect upon the average residential customer's monthly bill as a result of the Settlement is as follows:

	Effective on Date of Rate Filing	Proposed	As Settled
Residential Gravity (5,038 gal./mo.)	\$31.69/mo.	\$36.61/mo.	\$34.03/mo.
Residential Repumped (4,131 gal./mo.)	\$37.94/mo.	\$44.70/mo.	\$41.01/mo.

#### **IV. CONDITIONS OF SETTLEMENT**

14. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from this Settlement and may proceed with

litigation and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an order modifying the Settlement. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding and that the rates established hereunder are Commission-made, just and reasonable rates.

15. This Settlement is proposed by the Joint Petitioners to settle certain issues in the instant proceeding. If the Commission does not approve the Settlement and the proceedings continue to further hearings, the Joint Petitioners reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner may adopt in the event of any subsequent litigation of this proceeding.

16. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

17. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner which is fair and reasonable. The Settlement is the product of compromise. This Settlement is presented without prejudice to any position which any of the parties may have advanced and without prejudice to the position any of the parties may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of this Settlement. This Settlement does not preclude the parties from taking other positions in proceedings of other public utilities under Section 1308 of the Public Utility Code, 66 Pa.C.S. § 1308, or any other proceeding.

18. Attached as Appendices C through F are Statements of Support submitted by York Water, OTS, OCA and OSBA, setting forth the bases upon which they believe the Settlement is fair, just and reasonable and is, therefore, in the public interest.

19. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their rights to file Exceptions.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That the Honorable Administrative Law Judge David A. Salapa and the Commission approve this Settlement including all terms and conditions thereof;
2. That the Commission's Investigation at R-2010-2157140 and the complaints of OCA and OSBA at C-2010-2178038 and C-2010-2181763 be marked closed; and

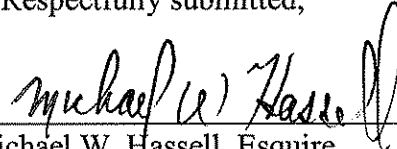
3. That the Commission enter an order consistent with this Settlement, terminating the proceeding and authorizing The York Water Company to file the tariff supplement attached as Appendix "A" effective as provided herein.



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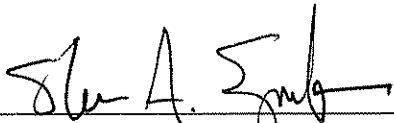
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*Attorney for Office of Trial Staff*

Respectfully submitted,



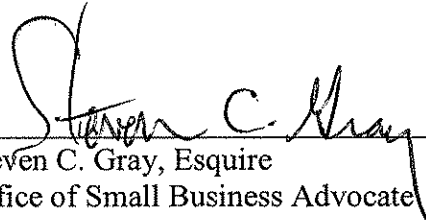
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*Attorney for Office of Small Business Advocate*

Dated: September 28, 2010

# Appendix A

**THE YORK WATER COMPANY**  
**RATES, RULES AND REGULATIONS**  
**GOVERNING THE DISTRIBUTION OF WATER**  
**IN**  
**THE CITY OF YORK**

BOROUGHS OF EAST PROSPECT, GLEN ROCK, HALLAM, JACOBUS, JEFFERSON, LOGANVILLE, MANCHESTER, MOUNT WOLF, NEW FREEDOM, NEW SALEM, NORTH YORK, RAILROAD, SEVEN VALLEYS, SHREWSBURY, SPRING GROVE, WEST YORK, YORK HAVEN AND YORKANA, AND TOWNSHIPS OF CODORUS, CONEWAGO, EAST MANCHESTER, HELLAM, HOPEWELL, JACKSON, LOWER WINDSOR, MANCHESTER, NEWBERRY, NORTH CODORUS, NORTH HOPEWELL, PARADISE, SHREWSBURY, SPRINGGETTSBURY, SPRINGFIELD, SPRING GARDEN, WEST MANCHESTER, WEST MANHEIM, WINDSOR AND YORK, IN YORK COUNTY, PENNSYLVANIA, AND THE BOROUGH OF ABBOTTSTOWN, AND TOWNSHIPS OF BERWICK, OXFORD, HAMILTON, READING, MOUNT PLEASANT AND UNION IN ADAMS COUNTY, PENNSYLVANIA

**ISSUED:**

**EFFECTIVE:**

By: Jeffrey R. Hines  
President and CEO  
130 East Market Street  
York, Pennsylvania



# **NOTICE**

**THIS TARIFF MAKES INCREASES IN EXISTING RATES**

(See Eighty-seventh Revised Page No. 2)

The York Water Company  
York, Pennsylvania

Supplement No. 98  
To  
Water-Pa. P.U.C. No. 14  
Eighty-seventh Revised Page No. 2  
Canceling  
Eighty-sixth Revised Page No. 2

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**LIST OF CHANGES MADE BY THIS SUPPLEMENT**

**INCREASES**

Base rates for water service are increased by approximately 10.1% for residential customers, 8.4% for commercial customers, 9.2% for industrial customers and 0.9% for private fire customers.

**DECREASES**

The distribution system improvement charge is decreased to 0.00% from 2.04% on page 66.

The state tax adjustment surcharge is decreased to 0.00% from 0.13% on page 40.

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**ISSUED:**

**EFFECTIVE:**

TABLE OF CONTENTS

	<u>Page</u>	
Title Page	Supplement No. 98	(C)
List of Changes Made by This Supplement	2	Eighty-seventh Revised (C)
Table of Contents	3	Eighty-seventh Revised (C)
Table of Contents	4	Third Revised
Table of Contents	5	Tenth Revised
Table of Contents	6	Eighty-fourth Revised (C)
Rules		
1. Definitions	7	Fourth Revised 7 (a) Fourth Revised
2. Application for Service		
2.1 Application Required	8	First Revised
2.2 Application Required	8	First Revised
3. Service Connections		
3.1 Company Service Line	9	Original
3.2 Temporary Service Connection	9	Original
3.3 Company's Service Line in Advance of Street Improvement	10	Fourth Revised
3.4 Customer's Service Line	10	Fourth Revised
3.5 Separate Trench Required	10	Fourth Revised
3.6 Tampering with Curb Stop	11	Original
3.7 Renewal of Service Line	11	Original
3.8 Location Change	11	Original
3.9 Use of Service	11	Original
3.10 Use of Service	12	First Revised
3.11 Upgrade/Extension of Service	12	First Revised
3.11.1 Agreement Required	12	First Revised
3.11.2 Amount of Advance	12	First Revised
3.11.3 Refunds	13	First Revised
3.11.4 Waiver of Advance	14	First Revised
3.11.5 Rules Not to Apply to System Improvements	15	First Revised
3.11.6 Governmental or Political Subdivision Advances	15	First Revised

(C) Indicates Change

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ISSUED:

EFFECTIVE:

TABLE OF CONTENTS (Continued)

Rules, continued	Page	
12. State Tax Adjustment Surcharge	40	Thirty-sixth Revised (D)
13. Rate Schedules		
Meter Rates		
Schedule "A" - Gravity System	41	Fourth Revised
	42	Twenty-first Revised (I)
Schedule "B" - Repumping System	43	Twelfth Revised
	44	Twenty-first Revised (I)
Flat Rates - Gravity System		
Schedule "C" - Building, Construction and Miscellaneous	45	Original
Schedule "D" - Fire Service	46	Nineteenth Revised
Flat Rates - Repumping System		
Schedule "E" - Building, Construction and Miscellaneous	47	Sixth Revised
Schedule "F" - Fire Service	48	Twenty-sixth Revised (I)
This page left blank intentionally for future use	49	Original
This page left blank intentionally for future use	50	Original
14. Drought Contingency Plan	51	Second Revised
15. Distribution System Improvement Charge	65	Third Revised
	66	Forty-sixth Revised (D)
16. Rider DS - Demand Based Service	67	First Revised

( I ) Indicates Increase

( D ) Indicates Decrease

ISSUED:

EFFECTIVE:

The York Water Company  
York, Pennsylvania

Supplement No. 98  
To  
Water-Pa. P.U.C. No. 14  
Thirty-sixth Revised Page No. 40  
Canceling  
Thirty-fifth Revised Page No. 40

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## 12. State Tax Adjustment Surcharge

- 12.1 In addition to the charges provided in this tariff, a surcharge of 0.00% will apply to all charges for service rendered on or after \_\_\_\_\_ (D)

The above surcharge will be recomputed, using the same elements prescribed by the Commission.

- a. Whenever any of the tax rates used in the calculation of the surcharge are changed; and
- b. Whenever the utility makes effective any increased or decreased rates.

The above recalculation will be submitted to the Commission within 10 days after the occurrence of the event or date which occasions such recomputation; and, if the recomputed surcharge is less than the one then in effect, the Company will, and if the recomputed surcharge is more than the one then in effect, the Company may, submit with such recomputation a tariff or supplement to reflect such recomputed surcharge, the effective date of which shall be 10 days after filing.

( I ) Indicates Increase

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ISSUED:

EFFECTIVE:

13. Rate Schedules (Continued)

Schedule "A" - Meter Rates (Continued)

Gravity System (Continued)

RATES

Customer Charges

Size of Meter	All Classes	
5/8"	\$14.55	
3/4"	18.90	(1)
1"	26.60	↓
1-1/2"	41.00	
2"	53.20	
3"	128.30	
4"	190.80	
6"	212.00	
8"	407.00	
10"	523.00	
12"	644.00	

Output Charges

	Rate per 1,000 Gallons		
	Residential	Commercial	Industrial
Up to 5,000 Gallons Per Month	\$3.867 (1)	\$3.714 (1)	\$3.714 (1)
Next 45,000 Gallons Per Month	3.867 (1)	2.661 (1)	2.661 (1)
Next 1,950,000 Gallons Per Month	3.867 (1)	2.073 (1)	2.279 (1)
Over 2,000,000 Gallons Per Month	3.867 (1)	2.073 (1)	1.962 (1)

(1) Indicates Increase

ISSUED:

EFFECTIVE:

13. Rate Schedules (Continued)

Schedule "B" - Meter Rates (Continued)

Repumping System (Continued)

RATES

Customer Charges

Size of Meter	All Classes	
5/8"	\$14.55	
3/4"	18.90	(1)
1"	26.60	↓
1-1/2"	41.00	
2"	53.20	
3"	128.30	
4"	190.80	
6"	212.00	
8"	407.00	
10"	523.00	
12"	644.00	

Output Charges

	Rate per 1,000 Gallons					
	Residential		Commercial		Industrial	
Up to 5,000 Gallons Per Month	\$6.405	(1)	\$6.118	(1)	\$6.118	(1)
Next 45,000 Gallons Per Month	6.405	(1)	5.198	(1)	5.198	(1)
Next 1,950,000 Gallons Per Month	6.405	(1)	2.799	(1)	4.622	(1)
Over 2,000,000 Gallons Per Month	6.405	(1)	2.799	(1)	2.837	(1)

(1) Indicates Increase

ISSUED:

EFFECTIVE:

13. Rate Schedules (Continued)

Schedule "F" - Fire Service Rates

Repumping System

Applicable for water service for fire purposes, in the City of York, Boroughs of East Prospect, Glen Rock, Jacobus, Jefferson, Loganville, New Freedom, New Salem, North York, Railroad, Seven Valleys, Shrewsbury, Spring Grove, West York, Manchester, Mount Wolf and Yorkana, and Townships of Codorus, Conewago, Hellam, Hopewell, Jackson, North Hopewell, Paradise, Shrewsbury, Springettsbury, Springfield, Spring Garden, Manchester, North Codorus, West Manchester, East Manchester, West Manheim, Windsor, York and Lower Windsor, York County, Pennsylvania, and the Borough of Abbottstown, and the Townships of Berwick, Oxford, Hamilton, Reading, Mount Pleasant and Union in Adams County, Pennsylvania where water is repumped.

RATES

	Per Month	
Public:		
Public Fire Hydrant (billed to a municipality or other Customer)	\$29.13	
Private:		
Sprinkler or Fire Service Systems:		
2-inch Connection	34.52	(1) ↓
3-inch Connection	46.00	
4-inch Connection	57.54	
6-inch Connection	115.06	
8-inch Connection	230.23	
10-inch Connection	345.42	
12-inch Connection	515.27	
Fire Hydrant, Private:		
Direct Connection to Company Owned Mains:	41.78	
Direct Connection to Customers Owned Mains:		
First Hydrant	41.78	
Each Additional Hydrant	31.36	

(1) Indicates Increase

ISSUED:

EFFECTIVE:

The York Water Company  
York, Pennsylvania

Supplement No. 98  
to  
Water-Pa. P.U.C. No. 14  
Forty-sixth Revised Page No. 66  
Canceling  
Forty-fifth Revised Page No. 66

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**15. Distribution System Improvement Charge (DSIC)**

- 15.1 In addition to the charges provided in this tariff, a distribution system improvement charge of 0.00% will apply to all charges for service, except public fire protection on or after \_\_\_\_\_ (D)

(D) Indicates Increase

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**ISSUED:**

**EFFECTIVE:**

## Appendix B

**THE YORK WATER COMPANY**

**COMPARISON OF PRO FORMA COST OF SERVICE WITH REVENUES UNDER PRESENT AND Settlement RATES  
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2010**

Customer Classification	Pro Forma Revenues, 12 Months Ending 12/31/2010			Settlement Increase		
	Under Present Rates* Amount (Schedule I)	Percent of Total	Under Settlement Rates Amount (Schedule J)	Percent of Total	Amount	Percent Increase
<b>Residential</b>						
Gravity	\$ 7,499,149	19.8%	\$ 8,225,752	20.0%	\$ 726,603	9.7%
Repumped	16,356,990	43.3%	18,045,241	43.8%	1,688,251	10.3%
Total	23,856,139	63.1%	26,270,993	63.8%	2,414,854	10.1%
<b>Commercial</b>						
Gravity	2,821,744	7.5%	3,042,014	7.4%	220,270	7.8%
Repumped	5,260,862	13.9%	5,720,099	13.9%	459,237	8.7%
Total	8,082,606	21.4%	8,762,113	21.3%	679,507	8.4%
<b>Industrial</b>						
Gravity	1,053,542	2.8%	1,134,097	2.8%	80,555	7.6%
Repumped	2,063,395	5.5%	2,268,779	5.5%	205,384	10.0%
Total	3,116,937	8.3%	3,402,876	8.3%	285,939	9.2%
<b>Private Fire</b>						
Gravity	592,542	1.5%	592,542	1.4%	-	0.0%
Repumped	936,749	2.5%	951,230	2.3%	14,481	1.5%
Total	1,529,291	4.0%	1,543,772	3.7%	14,481	0.9%
<b>Public Fire</b>						
Gravity	244,664	0.6%	244,664	0.6%	-	0.0%
Repumped	982,963	2.6%	982,963	2.4%	-	0.0%
Total	1,227,627	3.2%	1,227,627	3.0%	-	0.0%
<b>Total Sales</b>	<b>\$ 37,812,600</b>	<b>100.0%</b>	<b>\$ 41,207,381</b>	<b>100.1%</b>	<b>\$ 3,394,781</b>	<b>9.0%</b>
<b>Other Revenue</b>	<b>480,286</b>		<b>485,463</b>		<b>5,177</b>	<b>1.1%</b>
<b>Total</b>	<b>\$ 38,292,886</b>		<b>\$ 41,692,844</b>		<b>\$ 3,399,958</b>	<b>8.9%</b>

\* Present base rate revenue from Schedule I (excludes DSIC and STAS surcharges).

\*\* Percent of total revenue increase excluding private fire and other revenue increases.

**THE YORK WATER COMPANY**

**APPLICATION OF Settlement RATES TO CONSUMPTION ANALYSIS  
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2010**

<u>Rate Block, 100 Gallons</u> (1)	<u>Pro Forma Number of Bills</u> (2)	<u>Pro Forma Consumption, 100 Gallons</u> (3)	<u>Settlement Base Rates</u> (4)	<u>Revenue at Settlement Base Rates</u> (5)
<b><u>RESIDENTIAL GRAVITY</u></b>				
Customer Charges				
5/8	230,100		\$14.55	\$3,347,955
3/4	9,065		18.90	171,329
1	2,241		26.60	59,611
1-1/2	636		41.00	26,076
2	18		53.20	958
	<u>242,060</u>	<u>0</u>		<u>3,605,929</u>
All Usage		<u>11,946,788</u>	0.3867	<u>4,619,823</u>
Subtotal Gravity	242,060	11,946,788		8,225,752
<b><u>RESIDENTIAL REPUMPED</u></b>				
Customer Charges				
5/8	428,559		14.55	6,235,533
3/4	7,645		18.90	144,491
1	2,557		26.60	68,016
1-1/2	266		41.00	10,906
2	61		53.20	3,245
3	0		128.30	0
	<u>439,088</u>	<u>0</u>		<u>6,462,191</u>
All Usage		<u>18,084,388</u>	0.6405	<u>11,583,050</u>
Subtotal Repumped	<u>439,088</u>	<u>18,084,388</u>		<u>18,045,241</u>
Total Residential	<u>681,148</u>	<u>30,031,176</u>		<u>26,270,993</u>

**THE YORK WATER COMPANY**

**APPLICATION OF Settlement RATES TO CONSUMPTION ANALYSIS  
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2010**

<u>Rate Block, 100 Gallons</u> (1)	<u>Pro Forma Number of Bills</u> (2)	<u>Pro Forma Consumption, 100 Gallons</u> (3)	<u>Settlement Base Rates</u> (4)	<u>Revenue at Settlement Base Rates</u> (5)
<b><u>COMMERCIAL GRAVITY</u></b>				
Customer Charges				
5/8	905		\$14.55	\$13,168
3/4	15,579		18.90	294,443
1	5,971		26.60	158,829
1-1/2	3,539		41.00	145,099
2	2,486		53.20	132,255
3	643		128.30	82,497
4	463		190.80	88,340
6	96		212.00	20,352
	29,682	<u>0</u>		<u>934,983</u>
First 50		1,360,724	0.3714	505,373
Next 450		2,578,871	0.2661	686,238
Over 500		<u>4,415,917</u>	0.2073	<u>915,420</u>
Subtotal Gravity	29,682	8,355,512		3,042,014
<b><u>COMMERCIAL REPUMPED</u></b>				
Customer Charges				
5/8	1,102		\$14.55	\$16,034
3/4	10,157		18.90	191,967
1	4,880		26.60	129,808
1-1/2	4,332		41.00	177,612
2	2,858		53.20	152,046
3	985		128.30	126,376
4	439		190.80	83,761
6	121		212.00	25,652
8	24		407.00	9,768
	24,898	<u>0</u>		<u>913,024</u>
First 50		2,804,930	0.6118	1,716,056
Next 450		2,739,864	0.5198	1,424,182
Over 500		<u>5,955,117</u>	0.2799	<u>1,666,837</u>
Subtotal Repumped	24,898	11,499,911		5,720,099
Total Commercial	<u>54,580</u>	<u>19,855,424</u>		<u>\$8,762,113</u>

**THE YORK WATER COMPANY**

**APPLICATION OF Settlement RATES TO CONSUMPTION ANALYSIS  
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2010**

<u>Rate Block, 100 Gallons</u> (1)	<u>Pro Forma Number of Bills</u> (2)	<u>Pro Forma Consumption, 100 Gallons</u> (3)	<u>Settlement Base Rates</u> (4)	<u>Revenue at Settlement Base Rates</u> (5)
<b><u>INDUSTRIAL GRAVITY</u></b>				
Customer Charges				
5/8	12		\$14.55	\$175
3/4	423		18.90	7,995
1	348		26.60	9,257
1-1/2	376		41.00	15,416
2	544		53.20	28,941
3	216		128.30	27,713
4	218		190.80	41,594
6	122		212.00	25,864
12	12		644.00	7,728
	2,271	0		164,683
First 50		85,351	0.3714	31,699
Next 450		372,349	0.2661	99,082
Next 19,500		3,075,487	0.2279	700,903
Over 20,000		701,988	0.1962	137,730
Subtotal Gravity	2,271	4,235,175		1,134,097
<b><u>INDUSTRIAL REPUMPED</u></b>				
Customer Charges				
5/8	29		14.55	422
3/4	186		18.90	3,515
1	330		26.60	8,778
1-1/2	363		41.00	14,883
2	384		53.20	20,429
3	140		128.30	17,962
4	75		190.80	14,310
6	97		212.00	20,564
8	27		407.00	10,989
	1,631	0		111,852
First 50		67,773	0.6118	41,464
Next 450		303,624	0.5198	157,824
Next 19,500		2,338,632	0.4622	1,080,916
Over 20,000		3,090,317	0.2837	876,723
Subtotal Repumped	1,631	5,800,346		2,268,779
Total Industrial	3,902	10,035,521		3,402,876

**THE YORK WATER COMPANY**

**APPLICATION OF Settlement RATES TO CONSUMPTION ANALYSIS  
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2010**

<u>Rate Block, 100 Gallons</u> (1)	<u>Pro Forma Number of Bills</u> (2)	<u>Pro Forma Consumption, 100 Gallons</u> (3)	<u>Settlement Base Rates</u> (4)	<u>Revenue at Settlement Base Rates</u> (5)
<b><u>PRIVATE FIRE PROTECTION GRAVITY</u></b>				
Private Fire Lines:				
2-inch Connection	11		\$26.68	\$3,522
3-inch Connection	5		35.53	2,132
4-inch Connection	104		44.40	55,411
6-inch Connection	236		88.96	251,935
8-inch Connection	105		177.93	224,192
10-inch Connection	3		266.94	9,610
12-inch Connection	3		397.03	14,293
Private Fire Hydrant:				
First Fire Hydrant	67		35.53	28,566
Each Additional	<u>9</u>		26.68	<u>2,881</u>
Subtotal Gravity	<u>543</u>			<u>592,542</u>
<b><u>PRIVATE FIRE PROTECTION REPUMPED</u></b>				
Private Fire Lines:				
2-inch Connection	6		34.52	2,485
3-inch Connection	6		46.00	3,312
4-inch Connection	63		57.54	43,500
6-inch Connection	162		115.06	223,677
8-inch Connection	147		230.23	406,126
10-inch Connection	35		345.42	145,076
12-inch Connection	5		515.27	30,916
Private Fire Hydrant:				
First Fire Hydrant	188		41.78	94,256
Each Additional	<u>5</u>		31.36	<u>1,882</u>
Subtotal Repumped	<u>617</u>			<u>951,230</u>
Total Private Fire Protection	<u>1,160</u>			<u>1,543,772</u>
<b><u>PUBLIC FIRE PROTECTION</u></b>				
Fire Hydrants - Gravity	976		\$20.89	\$244,664
Fire Hydrants - Repumped	<u>2,812</u>		29.13	<u>982,963</u>
Total Public Fire Protection	<u>3,788</u>			<u>1,227,627</u>

## Appendix C

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
	:	Docket Nos. R-2010-2157140
OFFICE OF CONSUMER ADVOCATE	:	C-2010-2178038
	:	C-2010-2181763
OFFICE OF SMALL BUSINESS ADVOCATE	:	
	:	
	:	
V.	:	
	:	
THE YORK WATER COMPANY	:	

**THE YORK WATER COMPANY’S STATEMENT  
IN SUPPORT OF SETTLEMENT PETITION**

TO ADMINISTRATIVE LAW JUDGE DAVID A. SALAPA:

**I. INTRODUCTION**

The York Water Company (“York Water”) hereby submits this Statement in Support of the Settlement Petition (“Settlement”) entered into by York Water, the Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) (collectively, the “Joint Petitioners”), all of the parties in the above-captioned proceeding.

York Water believes that the Settlement is in the best interests of York Water and its customers, and is therefore in the public interest. The Settlement was achieved after considerable investigation of York Water’s operations, through both formal and informal discovery by the Joint Petitioners, the submission of Direct Testimony by York Water, OTS, OCA and OSBA and a series of discussions and negotiations among the parties as to the revenue level, rate design and other matters that would be in the public interest.

York Water believes that the base rate revenue increase of \$3,400,000 under the Settlement represents a fair compromise in the case, assuming that the Settlement is approved expeditiously. It is noted that by the time the Settlement rates become effective, it will have been approximately two years since York Water last increased its base rates. The increase in rates is necessary primarily due to increases in employee, electrical, retirement, and other costs since rates were last set, and to the return and depreciation requirements resulting from approximately \$30 million in new or replacement facilities that have been or will be placed in service in 2009-2010.

## **II. DISCUSSION**

### **A. Pension Contribution**

The Settlement includes key provisions concerning the amount of York Water's ongoing pension contributions. In particular, the Settlement specifies, subject to certain exceptions, that York Water will annually contribute \$1,592,601 to its defined benefit plan pension trusts. This represents a compromise between the Company's claim of \$2,150,691 and the OCA's proposal of \$1,055,344. See York Water Exhibit FIII-2-20; OCA St. No. 1, p. 26.

In a series of settlements, York Water and the parties have agreed to provisions that commit York Water to make a specified level of pension contributions, subject to IRS and ERISA restrictions. This approach has served effectively to provide assurance of adequate pension funding in exchange for rate allowances that support funding above minimum required levels. In York Water's last rate case in 2008, York Water agreed to contribute \$1,217,974 annually to its pension trusts, which was in excess of the then current minimum contribution level. However, as result of the recent severe recession, and the new funding requirements of the Pension Protection Act, in 2009, York Water contributed more than the \$1,217,974 provided for under its last settlement. York Water did not seek to recover this higher contribution from

ratepayers. York Water St. No. 103, p. 36. However, recognizing this experience, and based upon expectations of continued increases in minimum pension contributions, the Settlement compromise is reasonable. The Settlement pension contribution amount is important because it ensures that additional funds will be contributed to York Water's pension plans, benefitting both York Water's employees and customers by appropriately funding York Water's ultimate pension liability.

**B. Settlement Amortizations**

Although the overall Settlement amount is a "black-box" number, the Settlement does provide for certain specific amortizations. First, the Settlement allows York Water to continue to amortize the costs of performing a Feasibility Study to Estimate the Costs of Conducting a Customer Demand Study. In the settlement of York Water's 2006 rate case, the parties agreed that York Water would conduct this Feasibility Study and agreed that the cost of the Study would be recoverable as an amortized expense in later cases. Second, the Settlement continues to allow York Water to amortize the positive acquisition adjustment<sup>1</sup> for the Spring Grove Water Company and Borough of Spring Grove acquisitions. This amortization was established in York Water's 2006 base rate proceeding. As explained in that case, the former Spring Grove system had considerable water quality problems which were corrected when York Water acquired the system.

The Settlement also provides that York Water is not required to amortize or otherwise pass through to ratepayers the negative acquisition adjustments with respect to the acquisition of the Beaver Creek Water System ("Beaver Creek") or the Asbury Pointe Water System ("Asbury

---

<sup>1</sup> A positive acquisition adjustment results when the acquisition cost of assets exceeds the depreciated original cost of the acquired assets.

Pointe”). A negative acquisition adjustment results when the depreciated original cost of acquired property is greater than the acquisition price. In this instance, the negative acquisition adjustment is \$25,831 for Beaver Creek and \$185,299 for Asbury Pointe.

In *PA PUC v. York Water Company*, 77 PA PUC 367, 385, Docket No. R-922168 (Order entered November 18, 1992), the Commission held that under the provisions of Section 1327(e) of the Public Utility Code, 66 Pa.C.S. § 1327(e), water companies are not required to amortize negative acquisition adjustments when “matters of substantial public interest” are involved. The Commission in that case defined “matters of substantial public interest” to include such factors as “unsafe and inadequate water supplies, inadequate fire flows and the inability to meet Safe Drinking Water Act requirements.” *Id.* Under the Settlement, the Joint Petitioners agree that matters of substantial public interest exist with respect to the Beaver Creek and Asbury Pointe acquisitions, and that York Water should not be required to amortize the negative acquisition adjustments.

Specifically, York Water explained in its direct testimony that the owners of the Beaver Creek System were facing a potential infrastructure crisis with a need to replace buried mains and service lines and that the owners did not wish to continue to provide service. York St. No. 1, p. 10. York Water corrected the problems in the Beaver Creek system by replacing some of the system’s pipe and fixing leaks. In addition, York Water installed an automatic meter reading system for these customers.

In its testimony, York Water also explained that Asbury Pointe had applied for a Certificate of Public Convenience, which was granted subject to Asbury Pointe complying with certain conditions that were set forth in the Commission’s Order. Asbury Pointe never complied with the conditions and, therefore, was not authorized to charge its customers for water service.

Moreover, Asbury Pointe experienced problems in maintaining proper water pressures and had certain administrative violations of the Department of Environmental Protection's regulations. York St. No. 1, p. 12. Upon acquiring the Asbury Pointe System, York Water identified and fixed water leaks, installed an automated meter reading system and improved water flow and pressure. York St. No. 1, p. 13.

### **C. Revenue Allocation and Rate Design**

York Water believes that the revenue allocation and rate design incorporated in the Settlement reflects a reasonable compromise of this issue. In the Company's original filing, the Company proposed to move all classes to or substantially to cost of service under the Company's cost of service study, consistent with the settlement of the Company's last base rate proceeding. In this proceeding, OTS and OSBA agreed with the Company's proposed revenue allocation. However, OCA disagreed with the Company's cost of service study and proposed a revised revenue allocation which would allocate less of the increase to residential customers and more of the increase to commercial and industrial customers. OCA St. No. 2, p. 23. Under the Settlement, the Joint Petitioners agreed to an allocation that was halfway between the Company's revenue allocation proposal and the OCA's revenue allocation proposal, scaled back to reflect the allowed revenue increase.

In addition, customer charges reflect the OCA proposal that the 5/8" meter rate (the principal meter size for residential customers) remain at \$14.55 per month (OTS St. No. 3, p. 11), with other customer charges scaled back comparably from the Company's proposed rates. York Water notes that it was very important to the OCA to keep the 5/8" customer charge, which is the principal meter size for residential customers, at the current rate. OCA St. No. 2, p. 25. While York Water disagrees with OCA's analysis regarding the appropriate costs to include in customer charges, York Water took into account the impact at this time of a customer charge

increase on low usage, low income customers, and has accepted no increase for the basic, primarily residential, customer charge, as a part of a comprehensive settlement.

The Settlement rate design proposals represent a compromise of the Joint Petitioners. York Water notes, as the Commission has recognized many times, that cost allocation is not a precise science. York Water considers the resulting class allocation to be reasonable in light of its prior rate design, issues raised in other Joint Petitioners' testimony and the fact that the resulting class allocations were a result of compromise and agreed to by all of the Joint Petitioners.

**D. Stay-Out**

The Settlement contains a stay-out provision whereby York Water agrees not to file for a general rate increase earlier than April 26, 2012, unless in response to a Commission order or in response to fundamental changes in regulatory policies or federal tax policies affecting York Water's rates. If York Water files its next rate case filing at the earliest allowed date, and that case is fully litigated, new rates would not become effective until the end of January, 2013. Thus, this provision will provide customers with considerable rate stability over the next several years.

**E. Roll-In of STAS and DSIC Charges**

The Settlement reflects a roll-in of estimated 2010 state taxes and tax rates into base rates. In accordance with the provisions of 52 Pa. Code § 69.55, the State tax adjustment surcharge ("STAS") for York Water shall be established at 0% effective with the effective date of settlement rates in this proceeding. Further, the Distribution System Improvement Charge ("DSIC") for York Water shall be established at 0% effective with the effective date of settlement rates in this proceeding, and shall be subject to change effective April 1, 2011. An April 1, 2011, DSIC filing would reflect post-future test year DSIC eligible plant additions.

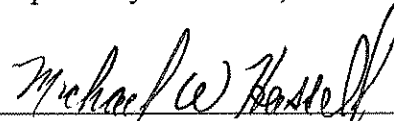
**F. Public Input Hearing**

At the Public Input Hearing, one of the witnesses, Mr. Robison, testified that he saw a piece of York Water equipment in his neighborhood and that the equipment was being used for yard work. Public Input Hearing Tr. 47. In response to this testimony, York Water has included with this Statement in Support a verified statement of its President, Mr. Jeffrey Hines. Hr. Hines explains that York Water has a Company policy that allows employees to check out Company equipment when it is not being used for Company business. Employees may not use the equipment for financial gain but may use it for personal reasons, including using it to assist family members or friends with projects such as hauling mulch or performing yard work. The employee must pay for fuel that is used and must pay taxes for the fringe benefits associated with using the equipment. York Water has investigated the circumstances discussed by Mr. Robison and has determined that the York Water equipment was checked out on a weekend and used by a Company employee in a manner that was fully consistent with the Company's policy.

### III. CONCLUSION

A settlement is the result of compromises by all parties. York Water believes a fair and reasonable compromise has been achieved in this case, and fully supports the Settlement. York Water respectfully requests the Commission's expeditious review and approval of the Settlement, in order that rates can be implemented as soon as possible.

Respectfully submitted,



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Anthony D. Kanagy (ID # 85522)  
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E-mail: akanagy@postschell.com

Of Counsel:

Post & Schell, P.C.

Date: September 28, 2010

Attorneys for The York Water Company



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
	:	Docket Nos. R-2010-2157140
OFFICE OF CONSUMER ADVOCATE	:	C-2010-2178038
	:	C-2010-2181763
OFFICE OF SMALL BUSINESS ADVOCATE	:	
	:	
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V.	:	
	:	
THE YORK WATER COMPANY	:	

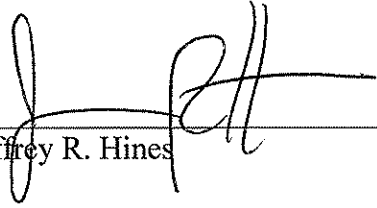
**VERIFIED STATEMENT OF JEFFREY R. HINES**

I, Jeffrey R. Hines, President and Chief Executive Officer of The York Water Company, hereby state that the facts set forth below are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

At the Public Input Hearing, one of the witnesses, Mr. Robison, testified that he saw a piece of York Water equipment in his neighborhood and that the equipment was being used for yard work. Public Input Hearing Tr. 47. In response to this testimony, I note that York Water has a Company policy that allows employees to check out Company equipment when it is not being used for Company business. Employees may not use the equipment for financial gain but may use it for personal reasons, including using it to assist family members or friends with projects such as hauling mulch or performing yard work. The employee must pay for fuel that is used and must pay taxes for the fringe benefits associated with using the equipment. I have investigated the circumstances discussed by Mr. Robison and have determined that the York

Water equipment was checked out on a weekend and used by a Company employee in a manner that was fully consistent with the Company's policy.

Date: 9/24/10

  
\_\_\_\_\_  
Jeffrey R. Hines

## Appendix D

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
	:	Docket No. R-2010-2157140
v.	:	
	:	
The York Water Company	:	

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**OFFICE OF TRIAL STAFF  
STATEMENT IN SUPPORT OF  
SETTLEMENT PETITION  
OF RATE PROCEEDING**

---

**TO ADMINISTRATIVE LAW JUDGE DAVID A. SALAPA:**

INTRODUCTION

The Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission, (“Commission”) by and through its Prosecutor Adeolu A. Bakare hereby respectfully submits that the terms and conditions of the foregoing Settlement Petition (“Settlement”) is in the public interest and represent a fair, just, reasonable and equitable balance of the interest of The York Water Company (“York Water” or “Company”) and its customers.

BACKGROUND

1. OTS is charged with the representation of the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public interest 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 the OTS analysis of the Company's filing, acceptance of this proposed Settlement is in the public interest and OTS recommends that Administrative Law Judge ("ALJ"), David A. Salapa, and the Commission approve the Settlement in its entirety.

1. All active parties to this proceeding participated in the settlement discussions that resulted in the foregoing Joint Petition for Settlement of Rate proceeding. The active parties consist of the Company, OTS, the Office of Small Business Advocate ("OSBA") and the Office of Consumer Advocate ("OCA").

2. Prior to agreeing to the instant settlement, OTS (1) conducted a thorough review of the Company's filing and supporting information, discovery responses and submitted filing data and contributed to the forthright discussions amongst the parties during settlement talks. The provisions of this settlement represent a revenue increase that OTS agrees is just and reasonable and in the public interest, but is not based upon any specific adjustments or ratemaking approach, except for the ones specifically indicated.

3. On May 14, 2010, York Water filed Supplement No. 94 to Tariff Water - Pa. P.U.C. No. 14, to become effective July 14, 2010, containing proposed changes in rates, rules, and regulations calculated to produce \$6,220,468 (15.9%) in additional annual revenues.

4. By Order entered June 16, 2010, the Commission instituted an investigation to determine the lawfulness, justness and reasonableness of the proposed rates, rules and regulations. Through the same Order, the Commission assigned the case to the Office of

Administrative Law Judge for the prompt scheduling of such hearings and the issuance of a Recommended Decision.

5. Pursuant to 66 Pa. C.S. § 1308(d), the filing was suspended by operation of law on June 16, 2010, until February 13, 2011, unless permitted by Commission Order to become effective at an earlier date.

6. On May 26, 2010, OTS filed a Notice of Appearance. The Office of Consumer Advocate and the Office of Small Business Advocate filed Formal Complaints, Public Statements and Notices of Appearance on May 25, 2010 and June 16, 2010, respectively.

7. Administrative Law Judge David A. Salapa conducted a Prehearing Conference on Thursday, July 8, 2010. Subsequently, OTS, OSBA and OCA distributed direct testimony on August 10, 2010.

8. Following the submission of direct testimony, the Company circulated a proposed settlement term sheet and the active parties proceeded to engage in settlement negotiations. The ensuing discussions reflected robust advocacy on behalf of all active parties which culminated in modifications to the Company's initially proposed term sheet and universal consent to the agreed upon Settlement.

9. OTS considers Commission approval of the terms and conditions of the Settlement to have the same effect as full and complete litigation and further recognizes that final resolution of this proceeding by approval of the Settlement shall result in Commission-made rates.

## SETTLEMENT TERMS

10. OTS agrees that the terms and conditions of the Settlement are in the public interest for a number of reasons, including the following:
- a. the Settlement provides for a level of additional operating revenues that OTS, as one of the Joint Petitioners, agrees is reasonable and lawful, (Settlement, p. 3);
  - b. the Settlement avoids the necessity of further administrative and possible appellate court proceedings, that would have been at substantial cost to the involved parties and the Company's jurisdictional ratepayers and thereby represents a conservation of time and saving of expenses for all involved;
  - c. the Settlement provides that the Company cannot file for another base rate increase prior to April 26, 2012 – a provision that provides a level of rate stability that would not exist if the case were fully litigated, (Settlement, p. 6);
  - d. the Settlement clarifies that the Company's Distribution System Improvement Charge ("DSIC") will be set at zero percent when the settlement rates become effective and that it will be subject to change effective April 1, 2011, (Settlement, p. 6);

- e. the Settlement provides a rate design including customer charges maintained at current rates for the 5/8 meter charge and scaled back from the Company originally filed proposal for all others, and a 50/50 split between the revenue allocations proposed by the Company and the OCA, (Settlement, p. 5);
  
- f. the Settlement contains the presumption that the agreed upon rates provide for recovery of the Company's cash contribution to pensions in the amount of \$1,592,601, (Settlement, p. 4).

CONCLUSION

11. In conclusion, the Office of Trial Staff has been thoroughly involved in The York Water Company's instant base rate proceeding. OTS reiterates that it fully supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judge David A. Salapa recommend and the Commission subsequently grant approval the Settlement as set forth in the Petition and accompanying appendices.

Respectfully submitted,



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Adeolu A. Bakare  
Prosecutor  
Attorney ID #208541

Office of Trial Staff  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, Pennsylvania 17105-3265  
(717) 787-1976

Dated: September 28, 2010

## Appendix E

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	Docket No. R-2010-2157140
	:	
	:	
OFFICE OF CONSUMER ADVOCATE	:	Docket No. C-2010-2178038
	:	
	:	
OFFICE OF SMALL BUSINESS ADVOCATE	:	Docket No. C-2010-2181763
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V.	:	
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THE YORK WATER COMPANY	:	
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STATEMENT OF THE  
OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF SETTLEMENT

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The Office of Consumer Advocate (OCA), one of the signatory Parties to the proposed Settlement Petition (Petition) filed in the above-referenced proceeding, submits that the terms and conditions of the proposed Settlement are in the public interest and respectfully requests that the Commission approve the Settlement without modification for the following reasons.

**I. INTRODUCTION AND BACKGROUND**

On May 14, 2010, York Water Company ("York" or "the Company") filed Supplement No. 94 to Tariff-Water Pa. P.U.C. No. 14 at Docket No. R-2010-2157140 to

become effective July 14, 2010. In Supplement 94 to Tariff-Water Pa. P.U.C. No. 14, the Company requests that the Commission approve an annual 15.9 % increase in base rates – an approximately \$6.22 million revenue increase -- charged to York ratepayers. York is a water utility that serves an estimated population of 156,000 people in York County. The OCA filed a Formal Complaint and Public Statement in this matter on May 25, 2010.

The Introduction and Background included in the Petition are accurate. The OCA would add only that this proposed rate increase generated more public interest in comparison to previous York rate filings. The Public Input Hearings conducted on August 23, 2010 in the York service territory show that affordability issues are paramount among York's customers. The OCA believes that the proposed Settlement adequately addresses these issues.

The terms of the Settlement cover all issues raised in the proceeding and the Parties have agreed to a revenue allocation and class rate designs to recover the increase provided for in the Settlement. The OCA believes that the terms contained in the Settlement Petition are in the public interest and requests that the Commission approve the Settlement without modification for all the following reasons.

## **II. TERMS AND CONDITIONS OF JOINT SETTLEMENT PETITION**

As discussed below, the OCA submits that the Settlement Petition, taken as a whole, is in the public interest and satisfactorily addresses the issues raised in the OCA analysis of the filing. While the Settlement does not reach all the OCA recommendations proposed in its testimony, the OCA recognizes that settlements are

the product of compromise. The OCA will discuss how the terms of the settlement address the issues raised by the OCA in testimony. To the extent that the OCA does not address issues raised by other Parties in this Statement in Support, the OCA does not oppose those terms and conditions.

The OCA submits that the Joint Petition taken as a whole is a reasonable compromise in consideration of likely litigation outcomes. Therefore, the OCA submits that the Joint Petition is in the public interest and supports Commission approval of the Joint Petition without modification. In support, the OCA provides as follows:

**A. Public benefits of Commission approval of the Settlement Petition.**

**1. Rate limitations.**

A major portion of the OCA's analysis and recommendation in this proceeding consisted of accounting adjustments to York's expense and rate base claims. OCA St. No. 1. Based on its analysis, the OCA recommended that the Commission reduce York's \$6,220,428 claim by \$5,407,363. OCA St. No. 1 Revised at 3. The OCA points out that the settlement terms do not specify the adoption or rejection of any particular accounting or rate base adjustment proposed by the OCA. The OCA also notes that York's claim for its pension funding expense constituted a significant sub-issue of its expenses claim and the OCA will discuss the treatment of this expense separately below.

In addition to analyzing York's expense claims the OCA also performed an extensive analysis of York's rate of return claim focusing on York's claim for return on equity. OCA St. No. 3. Based on its analysis, the OCA recommended that the

Commission adopt an overall rate of return of 8.12% for York. Again, the Settlement does not specify the adoption or rejection of any particular common equity cost rate.

The combined effect of the OCA's accounting, rate base, and rate of return recommendation was to provide York with an increase of no more than \$813,065, or 13%, of its original request of \$6,220,428. OCA St. No. 1 Revised at 3. While the OCA believes that its adjustments to York's filing were valid, there is no guarantee that the Commission would adopt any of the OCA's proposed accounting or expense adjustments or its rate of return recommendation in litigation.

The OCA believes that the overall revenue increase provided by the settlement terms, approximately \$3.4 million, reflects an outcome consistent with what the Parties may reasonably expect if they were to litigate this proceeding in its entirety. Settlement Petition at 3, ¶ 12 a. This increase represents approximately 54.6% of York's original request. The OCA is confident that this increase represents a fair balancing of the interests of York and its customers. Regarding York's customers, while rate increases are not welcome, this increase is reasonable under the law. In addition, the increase will provide York with the opportunity to earn a fair rate of return and provide York with the resources to provide safe, reasonable, and adequate service to its customers over the term of the stay out period discussed below. For these reasons, and the reasons discussed below, the Commission should approve the Settlement Petition as being in the public interest without modification.

**2. Rate request limitations.**

The Settlement Petition provides that York will not file to increase rates before April 26, 2012 with certain narrow exceptions. Settlement Petition at 6, ¶ i. This rate filing stay-out provision will provide York’s ratepayers and the affected public with approximately 18 months of rate stability. While this assists in supporting the OCA’s overall revenue recommendation above, rate stability is a public benefit in its own right and this specific and enforceable settlement condition ensures that York’s customers and the public will obtain a benefit from the Commission’s approval of the Settlement Petition.

**3. Rate effect of the Settlement**

The Settlement Petition provides that the average York residential customer will experience the following rates upon Commission approval of the Settlement.

	Effective on Date of Rate Filing	Proposed	As Settled
Residential Gravity (5,038 gal./mo.)	\$31.69/mo.	\$36.61/mo.	\$34.03/mo.
Residential Repumped (4,131 gal./mo.)	\$37.94/mo.	\$44.70/mo.	\$41.01/mo.

Settlement Petition at 6 ¶ 13. A component of the total bill is the customer charge; the OCA works to keep this fixed portion of the customer bill as low as possible. Here, the Settlement provides that the 5/8” meter charge (experienced by most residential customers) will remain at \$14.55/month. The Settlement

scales back all other proposed meter customer charges based upon the overall revenue reduction under the Settlement as compared to the Company's original request. Settlement Petition at 5, ¶ e. The OCA believes that these rates are just and reasonable and therefore in the public interest.

**4. The terms of the Settlement Petition provide for a fair allocation of York's pension expenses and serve to protect York's ratepayers from large future pension expense increases.**

The OCA does not dispute that prudently incurred pension expenses are recoverable in rates. However, the OCA did dispute the size of York's pension expense claim. OCA St. No. 1 at 24. In testimony, the OCA argued that York's ratepayers should bear the minimum statutorily required pension contribution of \$1,055,344. OCA St. No. 1 at 26. The OCA argued that the Commission should not approve York's adjusted mid-point claim for \$2,150,691 in rates because it was not necessary to move its pension programs closer to fully funded status at this time -- it is only necessary to meet the required minimums. *Id.*

In response to this, York offered to guarantee that (1) if it were to collect a claim of \$1,592,601 it would deposit those funds in its pension trust accounts and (2) if its required minimum contributions would exceed the claimed amount York would deposit any additional required amount. Settlement Petition at 4, ¶ d.

With these conditions, the OCA believes that Commission approval of the pension claim is in the public interest. York's pension claim constitutes a substantial portion of its claim for rate relief. The OCA believes that because pension expenses are recoverable in rates it is in the public interest to provide for gradual increases in this

aspect of York's rates. The OCA believes that utilities should avoid large swings in rates and York's guarantee regarding its pension payments supports this goal. While in excess of the statutory minimum, York's payments into its pension trusts will move those trusts closer to fully funded status, and this will provide both future rate stability and will promote consistent or smaller pension expense claims in future rate proceedings.

For these reasons, the Commission should approve this aspect of the Settlement Petition as being in the public interest without modification.

**5. The terms of the Settlement Petition provide for the appropriate amortization of recent York acquisitions.**

The Settlement Petition provides for the amortized recovery of costs related to York's purchase of two regional water systems that have had trouble in meeting the needs of their customers and the public. For the purposes of this Settlement, the OCA supports the inclusion of the costs associated with these acquisitions in rates amortized in the manner proposed as being a matter of substantial public interest. Settlement Petition at 3, ¶ B.

**6. The terms of the Settlement Petition provide for the reasonable allocation of the rate increase.**

In its testimony, the OCA argued that York's proposed cost of service study and rate allocations did not equitably allocate costs and rates among York's residential, commercial, and industrial classes of customers. OCA St. No. 2 AT 3. The rate design proposed in the Settlement Petition resolves the issues the OCA raised in cost of service

and rate design testimony. Here, the revenue allocation generally reflects a 50/50 split between the revenue allocation proposed by the Company and the OCA. Settlement Petition at 5, Appendix A and B.

The OCA submits that this aspect of the Settlement is reasonable given the evidence presented by the parties and likely litigation outcomes. The OCA submits that this aspect of the Settlement Petition is in the public interest and supports Commission approval of the Settlement without modification.

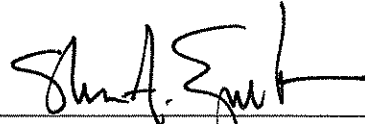
**7. The terms of the Settlement Petition provide for the withdrawal of York's proposed energy cost adjustment.**

As a part of its expense claim, York sought an energy cost adjustment for electricity costs in the nature of an annual reconciliation similar to the State Tax Adjustment Surcharge that York is authorized to collect. York St. 103 at 38. The OCA challenged the need, justification, and authority for York to institute such a program. As a part of the Settlement, York has agreed to withdraw its claim for an energy cost adjustment from the proceeding. The OCA submits that this aspect of the Settlement Petition is in the public interest and supports Commission approval of the Settlement without modification.

### III. CONCLUSION

For the foregoing reasons, the OCA respectfully requests that the Administrative Law Judge and the Public Utility Commission approve the terms and conditions of the Settlement Petition without modification as being in the public interest.

Respectfully Submitted,



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## Appendix F



## **The Settlement Petition**

The Settlement Petition sets forth a comprehensive list of issues that were resolved through the negotiation process. The following issues were of significance to the OSBA when it concluded that the Settlement Petition was in the best interests of York Water's small business customers.

**Revenue Requirement** – In the Company's original filing, York Water requested a revenue increase of \$6,220,428, with a requested return on equity ("ROE") of 11.75%. York Water Statement No. 107, at 1. In regards to the Company's requested ROE, OSBA witness Brian Kalcic testified, as follows:

Counsel advises that the Aqua Pennsylvania, Inc. ('Aqua') case at Docket No. R-00072711 represents the most recent litigated major water base rate proceeding. I am further advised that the Commission awarded Aqua an ROE of 11.00% in that proceeding, via its Opinion and Order entered July 31, 2008.

\* \* \*

On page 54 of its Opinion and Order, the Commission added 22 basis points to Aqua's discounted cash flow result 'in recognition of its exemplary managerial performance.' In other words, Aqua's baseline ROE award in Docket No. R-00072711 was 10.78%.

OSBA Statement No. 1, at 8. As a result, Mr. Kalcic concluded:

Shortly after the Commission issued its Opinion and Order in Docket No. R-00072711, it became evident that the US economy had entered a steep recession, from which it has yet to recover completely. In addition, capital markets experienced a financial crisis that intensified on and after approximately October 1, 2008. As a result, both interest rates and overall equity returns are lower today than when the Commission issued its Aqua Opinion and Order. Logically, these facts suggest that the baseline 10.78% ROE awarded to Aqua in Docket No. R-00072711 should act as the cap or ceiling on the ROE awarded to the Company in this proceeding.

OSBA Statement No. 1, at 8-9.

The Settlement Petition proposes to increase York Water's revenue by \$3.4 million. This is roughly 55% (\$3,400,000 divided by \$6,220,428) of the increase requested by the Company.

The reduced revenue requirement is consistent with Mr. Kalcic's criticism of the requested ROE.

**Customer Classes Revenue Allocation** – Because the Company's requested increase is over \$1 million, York Water submitted a cost of service study ("COSS") with its May 14<sup>th</sup> filing. *See generally* 52 Pa. Code § 53.53. Based upon that COSS, York Water allocated its originally proposed overall revenue increase to the Company's customer classes. Mr. Kalcic explained that the Company had two goals in mind when it proposed its original revenue allocation:

On page 9 of his direct testimony, Mr. Herbert lists two (2) specific rate design guidelines or directives that were conveyed to him by Company management: 1) increase public fire hydrant rates, as necessary, to recover 25% of cost of service per Section 1328 of the Public Utility Code; and 2) increase all remaining customer and consumption charges so as to move total revenues, by class, toward their indicated cost of service, while recovering the Company's claimed revenue requirement.

OSBA Statement No. 1, at 3.

Mr. Kalcic also explained how the Company's COSS results can be used to bring the York Water's customer classes closer to their cost of service in this proceeding:

By definition, if a class is not paying exactly its full cost of service, it is either: a) receiving a subsidy (i.e., paying too little); or b) providing a subsidy (i.e., paying too much). In order to determine whether or not a class is moving toward cost of service, one must ascertain whether the class' present subsidy is growing or shrinking at proposed rates. If its present subsidy is growing at proposed rates, the class is moving in the wrong direction (i.e., away from cost of service). Conversely, if its present subsidy is shrinking at proposed rates, the class is moving closer to cost of service.

In short, the proper yardstick for measuring the degree of movement toward cost of service is the change in the absolute level of class subsidies at present and proposed rates.

OSBA Statement No. 1, at 4-5.

After examining York Water's proposed revenue allocation, Mr. Kalcic concluded, as follows:

On a total system basis, a comparison . . . confirms that the Commercial, Industrial and Public Fire Protection classes would move (within rounding) to full cost of service under York's proposed revenue allocation. In addition, the Residential and Private Fire Protection classes would move substantially closer to full cost of service under the Company's proposed rates (i.e., the present subsidies provided and/or received by these rate classes would shrink in size).

OSBA Statement No. 1, at 5-6. If the Commission were to award York Water a revenue increase less than the \$6,220,428 requested by the Company, Mr. Kalcic testified:

In that event, I would recommend that the proposed class increases . . . be reduced proportionately via an across-the-board reduction of the Company's proposed increases within the Gravity and Repumped systems.

OSBA Statement No. 1, at 6.

The Office of Consumer Advocate ("OCA") began with the Company's COSS, but then changed certain parameters used in that study. *See* OCA Statement No. 2, at 2-23. As a result of those changes, the OCA's revenue allocation differed from that proposed by the Company. In general, the OCA proposed smaller increases for residential customers and larger increases for non-residential customers than proposed by the Company.

The Settlement Petition represents an average of the Company's and the OCA's proposed revenue allocations. A table comparing each class's share of total revenues at cost of service under the Company's COSS, at present rates, and at settlement rates is set forth below.

<i>Class</i>	<i>% of Total Revenue at Cost of Service</i>	<i>% of Total Revenue at Present Rates</i>	<i>% of Total Revenue at Settlement Rates</i>
Residential	64.9%	63.1%	63.8%
Commercial	20.8%	21.4%	21.3%
Industrial	8.2%	8.3%	8.3%
Private Fire	3.3%	4.0%	3.7%
Public Fire	<u>2.8%</u>	<u>3.2%</u>	<u>3.0%</u>
Total	100.0%	100.0%	100.1%
Sales			

See York Water Exhibit No. FVIII, Schedule A. See also, Settlement Petition, Appendix B, at 1.

As is shown above, the revenue allocation contained in the Settlement Petition moves the Residential, Commercial, Public Fire Protection, and Private Fire Protection closer to their full cost of service as calculated by the Company’s COSS. Furthermore, the Settlement Petition provides for a lower than system average increase to the Company’s Commercial and Private Fire Protection classes. See Settlement Petition, Appendix B, at 1.

Therefore, the OSBA supports the settlement revenue allocation.

**Energy Cost Adjustment Mechanism** – In its original filing, the Company proposed the adoption of an Energy Cost Adjustment (“ECA”) mechanism. Mr. Kalcic explained the operation of the ECA mechanism, as follows:

The ECA mechanism would collect or refund any difference between the energy costs included in base rates, as established in the Company’s last rate case, and the actual energy costs incurred over the period of calculation. Any difference in such energy costs would be tracked over a twelve-month calculation period, with the difference recovered from or refunded to customers (as appropriate) via a volumetric surcharge or surcredit over the following twelve-month period.

OSBA Statement No. 1, at 6 (footnote omitted).

The OSBA opposed the ECA mechanism on both operational and legal grounds. Mr. Kalcic summarized the objections:

If the ECA mechanism were to be approved, the Company would have no incentive to control its energy costs, since any cost increases would be automatically passed along to customers. As a result, I would expect that the only way ratepayers could benefit from the ECA would be if energy prices were to fall between base rate proceedings.

In addition, the ECA would make the Company whole for all energy cost increases between base rate proceedings without consideration of potentially offsetting revenue increases and/or expense decreases. Therefore, counsel advises that the ECA mechanism would constitute single-issue ratemaking, which is prohibited.

OSBA Statement No. 1, at 7.

In the Settlement Petition, the Company agrees to withdraw the ECA mechanism from this proceeding. Settlement Petition, Paragraph 12.h. The OSBA fully supports this result.

**Conclusion**

For the reasons set forth in the Settlement Petition, as well as the additional factors that are enumerated in this statement, the OSBA supports the proposed Settlement Petition and respectfully requests that the ALJ and the Commission approve the Settlement Petition in its entirety.

Respectfully submitted,



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