

January 25, 2012

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**Via Hand Delivery**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Bldg., 2nd Floor  
400 North Street  
Harrisburg, PA 17120

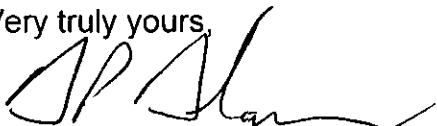
Re: Pennsylvania Public Utility Commission v. Penn Estates Utilities, Inc. (Water),  
Rate Filing at Docket No. R-2011-2255159

Dear Secretary Chiavetta:

Enclosed please find an original and three copies of a Joint Petition for Settlement of Rate Investigation and a Stipulation for Admission of Evidence for filing in the above-referenced matter.

Copies of these documents have been served on the Presiding Officers and parties to this matter as indicated on the enclosed Certificate of Service.

Very truly yours,



Daniel P. Delaney  
PA Attorney I.D. 23955  
Counsel for Penn Estates Utilities, Inc. (Water)

cc: Administrative Law Judge Kandace F. Melillo (w/confidential enclosures)  
Administrative Law Judge Joel H. Cheskis (w/confidential enclosures)  
Certificate of Service

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PA 100  
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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION  
ADMINISTRATIVE LAW JUDGES KANDACE F. MELILLO  
AND JOEL H. CHESKIS, PRESIDING**

Pennsylvania Public Utility Commission,	:	R-2011-2255159
Office of Consumer Advocate,	:	C-2011-2268982
Richard Ennis and	:	C-2011-2271703
Penn Estates Property Owners Association	:	C-2011-2279569

vs.

Penn Estates Utilities, Inc.  
Water Division

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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**JOINT PETITION FOR SETTLEMENT OF RATE INVESTIGATION**

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Penn Estates Utilities, Inc. - Water (the "Company"), the Bureau of Investigation and Enforcement ("BI&E"), and the Office of Consumer Advocate ("OCA") collectively, the Joint Petitioners, submit this Joint Petition for Settlement of Rate Investigation ("Joint Petition") and request the presiding Administrative Law Judges ("ALJs") to issue a Recommended Decision which: (1) approves the settlement of this proceeding as requested in this Joint Petition; (2) recommends that the Public Utility Commission ("Commission") adopt this Settlement, and permit the Company to file the Water Tariff Supplement attached to this Joint Petition as Exhibit A; and (3) terminates the investigation at the above docket number and marks the docket closed. In support of their request, the Joint Petitioners respectfully represent the following.

**BACKGROUND**

1. On September 30, 2011, Penn Estates Utilities, Inc. - Water filed Supplement No. 7 to Tariff Water - Pa. P.U.C. No. 3 to become effective November 29, 2011, containing proposed changes in rates, rules and regulations calculated to produce \$157,511, or 29.25% in additional annual service revenues based on a test

year ended June 30, 2011. By order entered November 10, 2011, the Commission instituted a formal investigation at Docket No. R-2011-2255159 to determine the lawfulness, justness and reasonableness of the Company's existing and proposed rates, rules and regulations. Supplement No. 7 was suspended by operation of law until June 29, 2012, unless otherwise directed by order of the Commission to become effective at an earlier date. A complaint was filed against the Company's proposed increase by the OCA. BI&E entered its appearance in the case also. The case was assigned to ALJs Melillo and Cheskis for purposes of conducting hearings and issuing a Recommended Decision. On or about November 8, 2011, Richard Ennis filed a complaint which was docketed at C-2011-2271703. On or about December 23, 2011, the Penn Estates Property Owners Association filed a complaint which was docketed at C-2011-2279569.

2. By letter dated November 18, 2011, Penn Estates agreed to mediation of the case and voluntarily extended the suspension period identified in the Commission's November 2011 Order by 60 days. With the 60-day extension, the suspension period for the proposed tariff supplement will expire on August 29, 2012.

3. The Company filed the prepared direct testimony of three witnesses and related exhibits on December 15, 2011. A prehearing conference was held on December 16, 2011, where a schedule was discussed for the submission of testimony and evidentiary hearings. Immediately following the prehearing conference, the initial mediation session was held with Mediator Cynthia Lehman. An additional mediation session was held with Mediator Lehman on January 5, 2012.

4. Additional information concerning the Company's rate filing was provided by the Company in response to interrogatories and informal data requests served by the

BI&E and OCA. On January 12, 2012, the parties notified the ALJs that a settlement in principle had been reached.

5. Settlement negotiations were conducted by the parties in an effort to settle some or all of the issues in the case. These negotiations resulted in this Joint Petition for Settlement. Except to the extent identified herein, the Joint Petitioners have not attempted to agree upon the specific rate case adjustments which support their positions in this case. The Joint Petitioners however are in agreement that this Settlement is in the best interest of the Company and its customers and therefore should be approved by the Presiding Officers as in the public interest.

#### SETTLEMENT TERMS AND CONDITIONS

6. The Settlement consists of the following terms and conditions:

a. Upon the entry of a Commission Order approving this Settlement, the Company will be permitted to charge the rates for water service as set forth in the proposed Tariff Supplement attached to this Joint Petition as Exhibit A. The settlement rates are designed to produce additional annual service revenues of \$85,000 for Penn Estates - Water as shown on the proof of revenues attached to this Joint Petition as Exhibit B. The Tariff Supplements contained in Exhibit A have been reviewed by the Joint Petitioners and comply with the terms of this Settlement. The Settlement rates are designed to produce approximately \$623,516 in total annual water service revenue as shown in Exhibit B, page 2. The average bill for a water customer that uses 4,300 gallons per month will increase from \$27.80 per month to \$32.17 per month (15.73%), in lieu of the \$35.96 per month (29.25%) increase proposed by the Company. Upon the entry of a Commission order approving this Joint Petition, the Company will be

permitted to file a Tariff Supplement in the form attached as Exhibit A to become effective upon one day's notice.

b. The Company will not file for another general water rate increase under Section 1308(d) of the Public Utility Code for 2 years after the entry date of the Commission order approving this settlement. However, if a legislative body or administrative agency, including the Commission, orders or enacts fundamental changes in policy or statutes which directly and substantially affect the Company's water rates, this Settlement shall not prevent the Company from filing tariff supplements to the extent required by such action.

c. The Company will be permitted to amortize over 3 years its incurred groundwater testing expense of \$40,200 for Synthetic Organic Compound testing required by the Department of Environmental Protection.

d. The Company will be permitted to revise its tariff to increase the after hours shut off and turn on fee to \$75.00.

7. The Company, the BI&E and the OCA have prepared and attached statements in support of this Joint Petition which are identified as Exhibits C, D and E, respectively. These statements identify the reasons that the parties believe the Settlement is just and reasonable and in the public interest.

8. The parties submit that the Settlement is in the public interest for the following additional reasons:

a. The Settlement provides for an increase in annual service revenues of \$85,000 for water service, or approximately 15.73%, in lieu of the \$157,511, or 29.25%, increase originally requested in water rates.

b. Acceptance of the proposed Settlement will avoid further administrative and possible appellate proceedings at substantial cost to the Joint Petitioners, the Commission, other parties and the Company's customers.

9. This Settlement is proposed by the Joint Petitioners to resolve the instant case and is made without admission against, or prejudice to, any position which any Joint Petitioner may adopt during subsequent litigation, including further litigation of this case. This Settlement is conditioned upon the Commission's approval of the terms and conditions identified herein without modification. If the Commission should disapprove the Settlement or modify the terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within three business days following entry of the Commission's order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including but not limited to presentation of witnesses, cross examination and legal argument through the submission of briefs and exceptions.

10. The Joint Petitioners recognize that this Joint Petition does not bind the formal Complainants. The ALJs are serving a copy of this Joint Petition on the Complainants with a letter explaining the Complainants' opportunity to address the proposed settlement. Nothing herein is intended to limit in any way any position which any Joint Petitioner may have, or take, concerning any comment or objection to the settlement that may be filed by the Complainants.

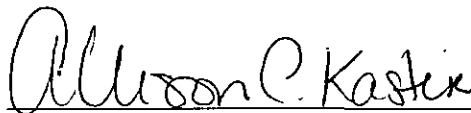
11. If the ALJs recommend that the Commission adopt the Settlement as presented in this Joint Petition, the Joint Petitioners agree to waive the filing of

Exceptions. The Joint Petitioners however reserve the right to file Exceptions to any modifications to the terms and conditions of this Settlement or any additional matters proposed by the ALJs in their Recommended Decision. The Joint Petitioners may also file replies to any Exceptions that may be filed to the Recommended Decision.

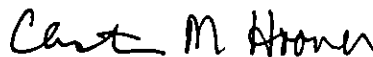
WHEREFORE, for all the foregoing reasons, the Joint Petitioners respectfully request:

1. That Presiding Administrative Law Judges and the Commission approve the settlement identified in this Joint Petition, including all terms and conditions;
2. That the Commission find the settlement rates to be just and reasonable and grant the Company permission to file the Tariff Supplement attached hereto as Exhibit A to become effective on one day's notice after entry of a Commission order approving this Settlement;
3. That the Commission terminate its investigation at Docket No. R-2011-2255159 and close this docket and dismiss any complaints filed against the Company's proposed rate increases by parties signing this Joint Petition for Settlement; and
4. Grant any additional relief that is just and reasonable under the circumstances.

Respectfully submitted,




Allison C. Kaster  
*Counsel for Bureau of Investigation and Enforcement*



Christine M. Hoover  
*Counsel for Office of Consumer Advocate*

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Daniel P. Delaney  
George A. Bibikos  
*Counsel for Penn Estates, Utilities, Inc. - Water*

Dated: January 25, 2012

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# Exhibit A

Tariff Supplement No. \_\_\_\_\_

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PENN ESTATES UTILITIES, INC.

Supplement No. \_\_\_ to  
Tariff Water-Pa. P.U.C. No. 3  
Fifth Revised Title Page  
Canceling Fourth Revised Title Page

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**PENN ESTATES UTILITIES, INC.**

RATES, RULES AND REGULATIONS GOVERNING

THE PROVISION OF WATER SERVICE

TO THE PUBLIC IN STROUD TOWNSHIP AND POCONO TOWNSHIP

MONROE COUNTY, PENNSYLVANIA

ISSUED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

ISSUED BY:  
Lisa Sparrow, President  
Penn Estates Utilities, Inc.  
503 Hallet Road  
East Stroudsburg, PA 18301  
(800) 860-4512

PENN ESTATES UTILITIES, INC.

Supplement No. \_\_\_ to  
Tariff Water-Pa. P.U.C. No. 3  
Sixth Revised Page No. 2  
Canceling Fifth Revised Page No. 2

Analomink, Pennsylvania

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LIST OF CHANGES

Change in rates.

Change in non-regular business hours shut off or turn on fee.

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ISSUED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

PART I: SCHEDULE OF RATES AND CHARGES

Section A - Rates for Metered Service

Residential

1. Customer Charge: Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

Meter Size

5/8 inch \$15.06/per month (I)

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:

Rate per 1000 Gals. \$3.98 (I)

Rates will be payable in arrears and will be billed monthly.

Pool

1. Customer Charge: Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

Meter Size

5/8 inch \$15.06/per month (I)

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:

Rate per 1000 Gals. \$3.98 (I)

Rates will be payable in arrears and will be billed monthly.

Clubhouse

1. Customer Charge: Each customer will be assessed a customer service charge based upon the size of the customer's meter as follows:

Meter Size

5/8 inch \$15.06/per month (I)

2. Consumption Charge: In addition to the customer charge, the following water consumption charges will apply:

Rate per 1000 Gals. \$3.98 (I)

Rates will be payable in arrears and will be billed monthly.

Section B - Fire Protection Rates

1. Private Fire Protection:

Not applicable.

2. Public Fire Protection:

No separate fee is charged for public fire protection.

Section C - Returned Check Charge

A charge of \$25 will be assessed any time where a check which has been presented to the Company for payment on account has been returned by the payor bank for any reason.

Section D - Availability Rates

The flat rate availability charge for a lot upon which no structure has been erected will be \$13.98 per month. These charges will be payable in arrears and will be billed quarterly. (I)

Section E - Service Termination or Resumption Rates

The fee for shut-off or turn-on of service at the curb stop shall be \$30.00 during regular business hours and \$75.00 during non-regular business hours. (I)

Section F - Meter Test Rates

Consistent with Commission regulation at 52 Pa. Code §65.8(h), the fee schedule for testing of meters shall be as follows:

ISSUED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

**Exhibit B**  
**Proof of Revenues**

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Penn Estates Utilities, Inc.  
Proposed Revenues

Supporting Schedule 2

**WATER**

Bill Code		Gallons	Usage Charge	Units	Rate	Min Charge	Revenues
<u>All Subs:</u>							
25501	5/8" Res. Wtr.	80,279,740	\$ 3.98	19,418	\$ 15.06	\$ -	\$ 612,255
25507	5/8" Pool Wtr.	240,600	\$ 3.98	48	\$ 15.06	\$ -	\$ 1,681
25508	5/8" Clubhouse Wtr.	22,900	\$ 3.98	12	\$ 15.06	\$ -	\$ 272
25604	Water availability	-	\$ -	222	\$ 41.93	\$ -	\$ 9,307
		-	\$ -	-	\$ -	\$ -	\$ -
		-	\$ -	-	\$ -	\$ -	\$ -
		-	\$ -	-	\$ -	\$ -	\$ -
		<u>80,543,240</u>		<u>19,700</u>			<u>\$ 623,516</u>

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## **Exhibit C**

# **Bureau of Investigation and Enforcement Statement in Support**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	
V.	:	DOCKET NO. R-2011-2255159
	:	
PENN ESTATES UTILITIES, INC.- WATER	:	
DIVISION	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT  
STATEMENT IN SUPPORT OF  
JOINT PETITION FOR SETTLEMENT  
OF RATE INVESTIGATION**

**TO THE HONORABLE KANDACE MELILLO AND JOEL CHESKIS:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), through its Prosecutor Allison C. Kaster, hereby respectfully submits that the terms and conditions of the foregoing Joint Petition for Settlement Of Rate Investigation (“Joint Petition” or “Settlement”) are in the public interest and represent a fair and just balance of the interests of Penn Estates Utilities, Inc.- Water Division (“Penn Estates” or “Company”) and its customers:

**BACKGROUND**

1. I&E 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 I&E 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. I&E analyzed the Company’s base rate filing and maintains that acceptance of this proposed Settlement is in the public interest.

Accordingly, I&E recommends that the Administrative Law Judges and the Commission approve the Settlement in its entirety.

2. On September 30, 2011, Penn Estates filed Supplement No. 7 to Tariff Water-Pa. P.U.C. No. 3 requesting an increase in its total annual operating revenues of \$157,511 (29.9%). By Order entered November 10, 2011, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of the Company's existing and proposed rates, rules and regulations. The filing was suspended by operation of law until June 29, 2012, unless permitted by Commission order to become effective at an earlier date.

3. The case was assigned to Administrative Law Judges Melillo and Cheskis ("ALJs") for purposes of conducting hearings and issuing a Recommended Decision.

4. By letter dated November 18, 2011, the Company requested that the proceeding be submitted to the Commission's mediation process. Accordingly, Penn Estates voluntarily extended the suspension period by 60 days until August 29, 2012.

5. A prehearing conference was held on December 16, 2011.

6. The parties attended mediation sessions on December 16, 2011 and January 5, 2012.

7. The Commission has stated that it is its policy to encourage settlements. 52 Pa. Code §5.231. Moreover, the Commission has expressed the view that the results of negotiated settlements are often preferable to the results achieved at the end of a fully litigated proceeding. 52 Pa. Code §69.401.

8. In accordance with Commission policy, the parties to the instant proceeding were successful in achieving a full and complete settlement of all issues utilizing the discovery and mediation process. Specifically, prior to agreeing to the terms contained in the instant

Settlement, I&E (1) conducted a thorough review of the rate filing and supporting information; (2) contributed to the discussions among the parties during mediation and settlement discussions; (3) engaged in extensive formal and informal discovery; and, (4) ensured that I&E's concerns regarding necessary conditions for Commission approval of the Settlement were addressed.

#### TERMS AND CONDITIONS OF SETTLEMENT

9. I&E submits that the Settlement represents a balance of the interests of the Company. Accordingly, for the reasons articulated below, I&E maintains that the proposed Settlement is in the public interest and requests that it be approved by the ALJ and the Commission without modification:

a. *Revenue Requirement* (Joint Petition ¶6.a.): The proposed Settlement permits Penn Estates to establish rates that produce additional annual operating revenue of \$85,000. This proposed increase is in lieu the Company's requested increase of \$157,511. As such, the settlement represents a \$72,511 decrease from filed request. The average monthly bill for a customer using 4,300 gallons per month will increase \$4.37 (15.7%) under the Settlement in lieu of the Company's filed request of \$8.15 (29.3%).

I&E analyzed the Company's ratemaking claims contained in its filing including, but not limited to, operating and maintenance expenses, rate base, cost of common equity, capital structure, and rate structure. Upon completion of this review, I&E maintains that the proposed \$85,000 increase significantly moderates the increase for the Company's ratepayers and results in just and reasonable rates as mandated by the Public Utility Code. Accordingly, the proposed rate increase is in the public interest because ratepayers will continue to receive safe and reliable service at reasonable rates while allowing sufficient additional revenues to meet Penn Estates operating expenses and provide a reasonable rate of return.

b. *Stay Out* (Joint Petition ¶6.b.): With the exceptions noted in the Joint Petition, the Settlement provides that the Company will refrain from filing a general rate increase two years from the entry date of Commission Order approving the Settlement. This stay-out provision benefits customers because it provides a period of rate stability.

c. *DEP Testing Amortization* (Joint Petition ¶6.c.): The Settlement provides that the Company will amortize its \$40,200 groundwater testing expense over three (3) years.

In February 2011, the Pennsylvania Department of Environmental Protection (“PADEP”) implemented new groundwater testing requirements, which increased the Company’s testing expense by approximately \$10,000 per quarter. PIEU St. No. 1, p. 5. Historically, Penn Estates was granted a waiver from the quarterly testing; however, in early 2011 PADEP no longer allowed waivers and required four consecutive quarters of testing. PIEU Statement No. 2, p. 4. The Company complied with the PADEP’s quarterly testing requirements in 2011, but anticipates that the frequency of the testing will be reduced going forward in light of the waivers that Penn Estates has previously received. PIEU Statement No. 1, p. 5.

The parties request that the \$40,200 testing expense be amortized over three years. Amortization allows for the recovery, over time, of an extraordinary, non-recurring expense. *Butler Township Water Company v. Pa. P.U.C.*, 473 A.2d 219 (Pa. Cmwlth. 1984). I&E maintains that Penn Estates prudently incurred the \$40,200 testing expense in order to comply with a PADEP testing mandate; however, it is not expected to be a recurring expense going forward. Accordingly, amortizing the \$40,200 testing expense is in the public interest as it allows the Company recovery of a prudently incurred expense, but moderates the rate impact for customers by recovering this extraordinary expense over three years.

d. I&E represents that all other issues have been satisfactorily resolved through discovery and discussions with the Company and are incorporated in the Settlement. The Settlement is “black box” in nature, therefore, expenses, cost of capital and return on equity are not specifically agreed upon. Nonetheless, the parties discussed and negotiated in this agreement the merits of various contested issues. Line by line identification and the ultimate resolution of the disputed issues is not necessary as I&E represents that the Settlement maintains the proper balance of the interests of all parties. I&E is satisfied that no further action is necessary and considers its investigation of this rate filing complete.

10. Based upon the analysis of the filing, acceptance of this proposed Settlement is in the public interest. Resolution of 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.

11. I&E further submits that the acceptance of the foregoing settlement will negate the need for evidentiary hearings, preparation of Main and Reply Briefs, preparation of Exceptions and Reply Exceptions, and the filing of possible appeals.

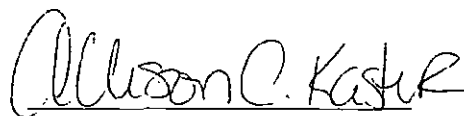
12. The Settlement is conditioned upon the Commission’s approval of all terms contained therein and should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement, it may be withdrawn by the Company or I&E as provided therein.

13. The agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by any other parties to the instant proceeding.

14. If the ALJs recommend that the Commission adopt the Settlement as proposed, I&E agrees to waive the filing of Exceptions. However, I&E has not waived its right to file Reply Exceptions with respect to any modifications to the terms and conditions of the Settlement, or any additional matters, that may be proposed by the ALJs in the Recommended Decision. I&E also reserves the right to file Reply Exceptions to any Exceptions that may be filed by the Company.

**WHEREFORE**, the Commission's Bureau of Investigation and Enforcement represents that it supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judges recommend, and the Commission approve, the terms and conditions contained in the foregoing Joint Petition for Settlement Of Rate Investigation without modification.

Respectfully submitted,

A handwritten signature in black ink that reads "Allison C. Kaster". The signature is written in a cursive style with a horizontal line underneath the name.

Allison C. Kaster  
Attorney I.D. 93176

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

Dated: January 24, 2012

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**Exhibit D**

**Office of Consumer Advocate  
Statement in Support**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:		
COMMISSION, et al.	:		
	:		
v.	:	Docket No.	R-2011-2255159
	:		C-2011-2268982
	:		
PENN ESTATES UTILITIES, INC.	:		
WATER DIVISION	:		

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STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF JOINT PETITION FOR SETTLEMENT

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The Office of Consumer Advocate of the Commonwealth of Pennsylvania (OCA), one of the signatory Parties to the Joint Petition for Settlement (Settlement), finds the terms and conditions of the Settlement to be in the public interest for the reasons discussed below. The OCA submits that the Settlement, taken as a whole, is in the public interest and satisfactorily addresses the issues raised in the OCA's complaint and analysis undertaken in this proceeding. While the Settlement does not reach all the recommendations the OCA may have proposed in its litigation position, the OCA recognizes that settlement is a product of compromise by all the Parties.

**I. INTRODUCTION**

On September 30, 2011, Penn Estates Utilities, Inc. - Water (Company or Penn Estates Water) filed Supplement No. 7 to Tariff Water - Pa. P.U.C. No. 3, to become effective November 29, 2011. If the proposed tariff had become effective, Penn Estates Water would have

had an opportunity to recover an estimated annual increase in base rate revenues of \$157,511. This would have represented an approximate 29.29% increase in Penn Estates Water's annual revenues. A typical customer using 4,300 gallons of water per month would have seen an increase from \$27.80 to \$35.96, or 29.25% per month. Rates for an availability customer would have increased from \$12.07 to \$15.60 per month, or 29.2%. Penn Estates Water serves approximately 1,612 metered customers and 54 availability customers in Stroud and Pocono Townships, Monroe County.

The OCA filed a formal complaint on October 25, 2011. The Bureau of Investigation and Enforcement (I&E) filed a notice of appearance. Two customers filed formal complaints against the request. By Order entered November 10, 2011 the Public Utility Commission (PUC or Commission) suspended the filing until June 29, 2012, and instituted an investigation into the reasonableness of the proposed rates. Penn Estates Water requested mediation and subsequently extended the suspension date until August 29, 2012. The Company filed its direct testimony on December 15, 2011. A prehearing conference was held on December 16, 2011 and mediation sessions were held as well as informal settlement discussions.

## **II. REVENUES**

The proposed Settlement provides for an increase in annual operating revenues of \$85,000, or 15.78%. Settlement at ¶ 6.a. A typical residential customer using 4,300 gallons of water per month would see an increase from \$27.80 to \$32.17 per month, or 15.73%. The rate for an availability customer will increase from \$12.07 to \$13.98 per month.

Based on the OCA's analysis of Penn Estates Water's filing, the proposed revenues in the Settlement represent amounts which, in the OCA's view, would be within the range of the likely outcomes in the event of full litigation of the cases. Thus, along with the stay out discussed

below, the overall revenue requirement provides benefits that would not be available to the parties if we litigated the case.

### **III. STAY OUT**

Penn Estates Water has agreed that it will not file another rate case any sooner than two years after the effective date of rates in this proceeding. Settlement at ¶ 6.b. If Penn Estates Water files another rate increase request as soon as its stay out expires and if that case is fully litigated, customers would receive the benefit of no additional rate increase for 33 months after the effective date of the rates in this case. Thus, the stayout will provide some level of rate stability for the customers.

### **IV. OTHER PROVISIONS**

Amortization of 2011 groundwater testing expense: During 2011, Penn Estates Water was required to conduct quarterly testing for Synthetic Organic Compounds at a cost of \$40,200. This represented a major change because Penn Estates Water had previously received a waiver for this testing. The parties have agreed that Penn Estates should be permitted to amortize this unusual, nonrecurring expense over three years. Settlement at ¶ 7.c. The OCA submits that this provision is an important part of the overall agreement and it addresses issues identified by OCA in its analysis of this case.

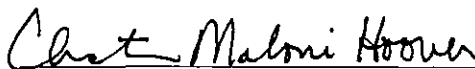
### **V. CONCLUSION**

The terms and conditions of the proposed Settlement of the rate proceeding represent a fair and reasonable resolution of the issues and claims arising in this proceeding. If approved, the proposed Settlement would reasonably addresses the rate increase request and produce revenues within a range of anticipated litigation outcomes, and under the Settlement, ratepayers will from the stay out. Finally, the Commission and all Parties would benefit by the reduction in

rate case expense and the conservation of resources made possible by adoption of the Settlement in lieu of full litigation.

WHEREFORE, for the foregoing reasons, the Office of Consumer Advocate submits that the proposed Settlement is in the best interests of Penn Estates Water's customers.

Respectfully submitted,



Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
Pa. I.D. No. 50026  
[choover@paoca.org](mailto:choover@paoca.org)

Counsel for:  
Irwin A. Popowsky  
Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
(717) 783-5048  
(717) 783-7152(fax)

Date: January 24, 2012  
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SECRETARY'S BUREAU

**Exhibit E**

**Penn Estates Utilities, Inc. -  
Water Division  
Statement in Support**

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION  
ADMINISTRATIVE LAW JUDGES KANDACE F. MELILLO  
AND JOEL H. CHESKIS, PRESIDING**

Pennsylvania Public Utility Commission,	:	R-2011-2255159
	:	
Office of Consumer Advocate,	:	C-2011-2268982
	:	
Richard Ennis, and	:	C-2011-2271703
	:	
Penn Estates Property Owners Association	:	C-2011-2279569
	:	
vs.	:	
	:	
Penn Estates Utilities, Inc. Water Division	:	

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**STATEMENT OF PENN ESTATES UTILITIES, INC. IN SUPPORT OF  
JOINT PETITION FOR SETTLEMENT OF RATE INVESTIGATIONS**

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Penn Estates Utilities, Inc. – Water Division (the "Company") submits that the proposed Settlement is in the best interest of the Company and its customers and is therefore in the public interest. The Settlement is the result of extensive discovery produced by the Company and reviewed by the Commission's Bureau of Investigation and Enforcement ("BI&E") and the Office of Consumer Advocate ("OCA"), the submission of testimony by the Company and negotiations among the Joint Petitioners as to the appropriate level of revenue increase. The Company supports the Presiding Officer's and Commission's approval of the proposed Settlement and offers the following reasons why the Settlement should be approved.

1. Penn Estates Utilities, Inc. is a regulated public utility engaged in the production, treatment and distribution of water and the collection and treatment of sewage. The Company is located in the Pocono Mountains, near Stroudsburg,

Pennsylvania, where it serves approximately 1,612 water and sewer customers and maintains available service to approximately 54 availability customers. Penn Estates Utilities is a wholly owned subsidiary of Utilities, Inc.

2. By Order entered February 10, 1997, the Commission approved the acquisition by Penn Estates Utilities, Inc. of Stroud Water's and Penn Utilities' assets and operating rights. See Application of Penn Estates Utilities, Inc. at Commission Docket Nos. A-210072, *et. seq.* (Order entered February 10, 1997). Since that time, the Company has made significant improvements to the utility systems and is in the process of making additional improvements. Total combined (water and sewer) improvements since the 2004 rate increase total over \$1.8 million, and exceed \$4.0 million since acquisition. These improvements assist the water and sewer utilities in providing safe, adequate and proper service to the public and in maintaining compliance with the requirements of the Pennsylvania Department of Environmental Protection ("DEP").

3. A Joint Petition for Settlement of the Company's last rate case was approved by the Commission on January 14, 2010. The Water Division docket reference was R-2009-2117532. Since that time, the Company has incurred additional costs for synthetic organic compound testing mandated by DEP. An increase in the Company's water rates is required to establish an income level which will permit the Company to finance essential and continuing plant investment so as to comply with ongoing environmental and health regulations, to permit the Company to earn a fair and accurate return on investment and to enable the Company to continue to provide safe, adequate and proper service to its customers.

4. The water revenue increases identified in this Settlement are less than the increase originally requested by the Company. In this Settlement, the Company has agreed to an increase in annual service revenues for water service of \$85,000 in lieu of the increase of \$157,511 originally proposed. The Settlement rates are designed to produce approximately \$623,516 in total annual water service revenue as shown in Exhibit B to the Joint Petition, page 2. The average bill for a water customer that uses 4,300 gallons per month will increase from \$27.80 per month to \$32.17 per month (15.73%), in lieu of the \$35.96 per month (29.25%) increase proposed by the Company.

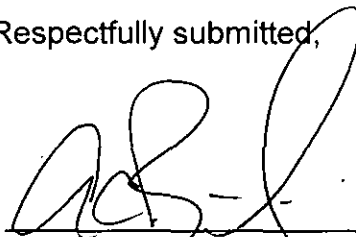
5. While less than originally requested, the increase in annual water revenue will permit the Company to finance continuing plant investment so as to comply with environmental and health regulations, permit the Company to earn a fair and adequate rate of return on investment in property used and useful in public utility service, enable the Company to maintain financial integrity and raise such funds as are necessary for the proper discharge of its duties, and to continue to provide adequate and safe and proper service to its customers.

6. As part of the settlement, the Company has agreed not to file for another general water rate increase under Section 1308(d) of the Public Utility Code for 2 years after the entry date of the Commission order approving this settlement. The Company will be permitted to amortize over 3 years its incurred groundwater testing expense of \$40,200 for SOC testing required by DEP. The Company will also be permitted to revise its tariff to increase the after-hours shut off and turn on fee to \$75.00 to reflect the additional costs of providing after-hours services.

7. Acceptance of this Settlement by the Presiding Officer and Commission will allow the parties and Commission to avoid expending additional effort and resources that would be required to fully litigate this proceeding and also avoid the possibility of any appellate litigation following the entry of the Commission's final order. This Settlement reflects a compromise by all parties to the case which has resulted in just and reasonable settlement rates.

WHEREFORE, Penn Estates Utilities, Inc. submits that this Settlement is in the best interest of both the Company and its customers and is therefore in the public interest and should be approved by the Commission. The Company respectfully requests the Presiding Officer's and Commission's prompt review and approval of this Settlement and the issuance of a Commission order which permits the revised water rates to be implemented for service rendered on one day's notice after the Commission's approval of the Joint Petition for Settlement of Rate Investigations.

Respectfully submitted,



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Dated: January 25, 2011

Counsel for Penn Estates Utilities, Inc.

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION  
ADMINISTRATIVE LAW JUDGES KANDACE F. MELILLO  
AND JOEL H. CHESKIS, PRESIDING**

Pennsylvania Public Utility Commission,	:	R-2011-2255159
Office of Consumer Advocate,	:	C-2011-2268982
Richard Ennis and	:	C-2011-2271703
Penn Estates Property Owners Association	:	C-2011-2279569
	:	
vs.	:	
	:	
Penn Estates Utilities, Inc.	:	
Water Division	:	

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**STIPULATION FOR ADMISSION OF EVIDENCE**

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Penn Estates Utilities, Inc. - Water ("Penn Estates" or "Company"), the Bureau of Investigation and Enforcement ("BI&E") the Office of Consumer Advocate ("OCA"), (collectively, the "Parties") file this Stipulation for Admission of Evidence ("Stipulation") in the above-captioned proceeding. In support of this Stipulation, the parties respectfully represent the following:

1. On September 30, 2011, Penn Estates Utilities, Inc. - Water filed Supplement No. 7 to Tariff Water - Pa. P.U.C. No. 3 to become effective November 29, 2011, containing proposed changes in rates, rules and regulations calculated to produce \$157,511, or 29.25% in additional annual service revenues based on a test year ended June 30, 2011. By order entered November 10, 2011, the Commission instituted a formal investigation at Docket No. R-2011-2255159 to determine the lawfulness, justness and reasonableness of the Company's existing and proposed rates, rules and regulations. Supplement No. 7 was suspended by operation of law until

June 29, 2012, unless otherwise directed by order of the Commission to become effective at an earlier date. A complaint was filed against the Company's proposed increase by the OCA. BI&E entered its appearance in the case also. The case was assigned to ALJs Melillo and Cheskis for purposes of conducting hearings and issuing a Recommended Decision. On or about November 8, 2011, Richard Ennis filed a complaint which was docketed at C-2011-2271703. On or about December 23, 2011, the Penn Estates Property Owners Association filed a complaint which was docketed at C-2011-2279569.

2. By letter dated November 18, 2011, Penn Estates agreed to mediation of the case and voluntarily extended the suspension period identified in the Commission's November 2011 Order by 60 days. With the 60-day extension, the suspension period for the proposed tariff supplement will expire on August 29, 2012.

3. The Company filed the prepared direct testimony of four witnesses and related exhibits on December 15, 2011. A prehearing conference was held on December 16, 2011, where a schedule was discussed for the submission of testimony and evidentiary hearings. Immediately following the prehearing conference, the initial mediation session was held with Mediator Cynthia Lehman. An additional mediation session was held with Mediator Lehman on January 5, 2012.

4. Additional information concerning the Company's rate filing was provided by the Company in response to interrogatories and informal data requests served by the BI&E and OCA. On January 12, 2012, the parties notified the ALJs that a settlement in principle had been reached.

5. Extensive settlement negotiations were conducted by the parties on several occasions and during two mediation sessions in an effort to settle some or all of the issues in the case. These negotiations resulted in the Joint Petition for Settlement which has been filed with this Stipulation. In conjunction with the Joint Petition for Settlement of Rate Investigation, the parties have entered into this evidence stipulation with regard to admission by stipulation of the following testimony and exhibits into the record.

a. Penn Estates Supplement No. 7 to Tariff Water - PA P.U.C. No. 3 with supporting documents, filed with the Commission Secretary on September 30, 2011.

b. Penn Estates Statement No. 1 (direct testimony of Brian Shrake, Senior Regulatory Accountant Utilities Inc.), dated December 16, 2011.

c. Penn Estates Statement No. 2 (direct testimony of Martin J. Lashua, Regional Director, Penn Estates Utilities, Inc.), dated December 16, 2011.

d. Penn Estates Statement No. 3 (direct testimony of Pauline M. Ahern, Principal, AUS Consultants) with Exhibit PMA-D-1, dated December 2011.

e. Penn Estates Statement No. 4 (direct testimony of Dylan W. D'Ascendis, Associate, AUS Consultants) with Exhibit DWD-D-1, dated December 2011.

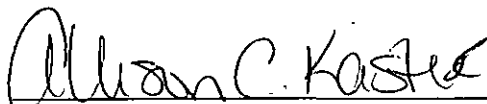
6. The admission by stipulation of the foregoing documents, testimony and exhibits is subject to the approval of the Joint Petition for Settlement of Rate Investigation by the Commission. As set forth in the Joint Petition for Settlement, all

parties reserve their right to submit further testimony and to cross-examine witnesses in the event the Joint Petition for Settlement is not approved by the Commission.

7. Copies of the documents, testimony and exhibits identified in paragraph 6 of this Stipulation have been provided to ALJs Melillo and Cheskis with this Stipulation. Copies of these documents will be filed with the Commission Secretary upon issuance of a Recommended Decision approving the Joint Petition for Settlement of Rate Investigation.

WHEREFORE, the parties respectfully request the Presiding Officer to admit the foregoing documents, testimony and exhibits into the record of this proceeding.

Respectfully submitted,



Allison C. Kaster  
*Counsel for Bureau of Investigation and Enforcement*



Christine M. Hoover  
*Counsel for Office of Consumer Advocate*



Daniel P. Delaney  
George A. Bibikos  
*Counsel for Penn Estates, Utilities, Inc. - Water*

Dated: January 25, 2012

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SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

v. :

Docket No. R-2011-2255159

Penn Estates Utilities, Inc. - Water  
Division :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing documents upon the individuals listed, in accordance with the requirements of Section 1.54 (relating to service by a party).

**Via U.S. Mail and E-Mail**

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**Via Hand Delivery and E-Mail**

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Counsel for Penn Estates Utilities Inc.

Dated: January 25 , 2012

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