**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2015-2462723

 :

Office of Consumer Advocate : C-2015-2465209

 :

Office of Small Business Advocate : C-2015-2466594

 :

Amy Patton : C-2015-2468927

 :

Robert Rosten : C-2015-2471689

 :

 v. :

 :

United Water Pennsylvania, Inc. :

**RECOMMENDED DECISION**

Before

David A. Salapa

Administrative Law Judge

INTRODUCTION

 A water utility filed a request for an increase in the rates it charges its customers. This decision recommends approval of a settlement agreement among the water utility and statutory advocates which provides for an increase in rates because the settlement will provide sufficient revenue to permit the water utility to undertake several major capital projects while addressing concerns raised by the statutory advocates.

HISTORY OF THE PROCEEDING

On January 28, 2015, United Water Pennsylvania Inc. (United) filed Supplement No. 42 to Tariff Water-Pa. P.U.C. No. 7 to become effective March 29, 2015, containing proposed changes in rates, rules, and regulations calculated to produce $9,592,444 (26.7%) in additional annualrevenues based on a historic test year ending September 30, 2014, future test year ending September 30, 2015, and projected future test year ending October 31, 2016.

On February 2, 2015, the Office of Consumer Advocate (OCA) filed a formal complaint that the Commission docketed at C-2015-2465209. On February 5, 2015, the Office of Small Business Advocate (OSBA) filed a complaint that the Commission docketed at C-2015-2466594. The Commission’s Bureau of Investigation and Enforcement (I&E) filed a notice of appearance on February 11, 2015. On February 19, 2015, Amy Patton filed a formal complaint that the Commission docketed at C-2015-2468927.

 By order entered February 26, 2015, the Commission suspended the proposed Supplement No. 42 to Tariff Water-Pa. P.U.C. No. 7 until October 29, 2015 and instituted an investigation into the reasonableness of the proposed rates. By notice dated February 26, 2015, the Commission scheduled a prehearing conference for this matter on March 6, 2015 at 10:00 a.m. in Hearing Room 2, Commonwealth Keystone Building in Harrisburg and assigned the case to me. I issued a prehearing conference order, dated February 26, 2015, setting forth the procedural matters to be addressed at the prehearing conference. Subsequently, a corrected notice and corrected order were issued.

I conducted the prehearing conference in this case as scheduled on March 6, 2015 at 10:00 a.m. in Harrisburg. Present were counsel for I&E, OCA, OSBA and United. As a result of the prehearing conference, I issued Prehearing Order #2, dated March 9, 2015. Prehearing Order #2 established a litigation and briefing schedule. By notice dated March 10, 2015, the Commission scheduled this matter for hearings on June 4-5 and 8, 2015 at 10:00 a.m. in Hearing Room 2, Commonwealth Keystone Building in Harrisburg.

On March 9, 2015, Robert Rosten filed a formal complaint that the Commission docketed at C-2015-2471689.

On March 18, 2015, United filed a motion requesting that I issue a protective order in this proceeding, pursuant to 52 Pa.Code § 5.365(a). The motion stated that OCA, I&E and OSBA did not oppose the motion. By order dated March 20, 2015, I granted United’s motion.

On June 1, 2015, I received an e-mail from the active parties to this proceeding representing that those parties had reached an agreement in principle, settling all the issues in this proceeding and requesting that I suspend the litigation schedule. The active parties represented that they would file a signed written settlement agreement shortly. By order dated June 2, 2015, I suspended the litigation schedule set forth in Prehearing Order #2 and canceled the hearings scheduled for June 4-5 and 8, 2015.

 On June 26, 2015, United filed a joint petition for settlement and attachments. Included in the attachments to the joint petition are statements in support of the joint petition by I&E, OCA, OSBA and United. On June 26, 2015, United also filed a stipulation for admission of evidence and attachment. The stipulation states that United, I&E, OCA and OSBA all served direct testimony and exhibits in this proceeding. In conjunction with the joint petition, the stipulation states that United, I&E, OCA and OSBA have entered into the stipulation in order to admit the testimony and exhibits of United, I&E, OCA and OSBA set forth in the stipulation. The stipulation requests that the Commission admit the testimony and exhibits listed in the stipulation into the record in this proceeding.

 On June 26, 2015, United served a copy of the joint petition and attachments on both of the private complainants. I issued a letter, dated June 29, 2015, stating that the private complainants should review the joint settlement petition and provide any comments or objections to the joint settlement petition to me in writing within ten days of the date of the letter. I also enclosed a signature page that the private complainants could sign and return to me if they wished to join in the joint settlement petition.

 As of the date of this decision, I have not received any written comments or objections from either of the private complainants regarding the joint petition. The record closed on June 26, 2015, the date United filed the settlement petition. For the reasons set forth below, I recommend that the Commission approve and adopt the settlement agreement.

DISCUSSION

The Commission applies certain principles in deciding any general rate increase case brought pursuant to 66 Pa.C.S. § 1308(d). A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of its property dedicated to public service. Pennsylvania Gas and Water Co. v. Pennsylvania Pub. Util. Comm’n, 341 A.2d 239 (Pa.Cmwlth. 1975). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in Bluefield Water Works and Improvement Co. v. Public Service Comm’n of West Virginia, 262 U.S. 679 (1923) and Federal Power Comm’n v. Hope Natural Gas Co., 320 U.S. 591 (1944). In Bluefield the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

Bluefield Water Works and Improvement Co. v. Public Service Comm’n of West Virginia, 262 U.S. 679, 692-3 (1923).

The public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request, pursuant to 66 Pa.C.S. § 1308(d). The statute at 66 Pa.C.S. § 315(a) sets forth the standard to be met by the public utility:

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

 In a general rate increase proceeding, the burden of proof does not shift to parties challenging a requested rate increase. The utility has the burden of establishing the justness and reasonableness of every component of its rate request throughout the rate proceeding. Other parties to the proceeding do not have the burden of proof to justify an adjustment to the public utility’s filing. In this regard, the Pennsylvania Supreme Court in Berner v. Pennsylvania Pub.Util. Comm’n, 116 A.2d 738, 744 (Pa. 1955) stated:

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

 However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims it has made in its filing that no other party has questioned. In Allegheny Center Assocs. v. Pennsylvania Pub. Util. Comm’n, 570 A.2d 149, (Pa.Cmwlth. 1990), the Pennsylvania Commonwealth Court stated:

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

 In analyzing a proposed general rate increase, the Commission determines a rate of return to be applied to a rate base, measured by the aggregate value of all the utility’s property used and useful in the public service. In determining a proper rate of return, the Commission calculates the utility’s capital structure and the cost of the different types of capital during the period in issue. The Commission has wide discretion, because of its administrative expertise, in determining the cost of capital. Equitable Gas Co. v. Pennsylvania Pub. Util. Comm’n, 405 A.2d 1055 (Pa.Cmwlth. 1979).

In this general rate increase case, United, I&E, OCA and OSBA have reached a settlement. Commission policy promotes settlements. 52 Pa.Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve precious administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa.Code § 69.401

In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. Pennsylvania Pub. Util. Comm’n v. York Water Co*.*, Docket No. R-00049165, (Order entered October 4, 2004); Pa. Pub. Util. Comm’n v. C S Water and Sewer Assoc., 74 Pa. P.U.C. 767 (1991).

In this case, the parties have reached what is referred to as a “black box” settlement where the settlement provides for an increase in the utility’s revenues but does not indicate how the parties calculated the increase. The Commission has permitted “black box” settlements as a means of promoting settlements in contentious base rate proceedings. Pa. Pub. Util. Comm’n v. Wellsboro Electric Co., Docket No. R-2010-2172662 (Order entered January 13, 2011); Pa. Pub. Util. Comm’n v. Citizens’ Electric Co. of Lewisburg, Docket No. R-2010-2172665 (Order entered January 13, 2011). The Commission has observed that determining a utility’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting expenses, depreciation, rate base, taxes and the utility’s cost of capital. Reaching an agreement among the parties on each component can be difficult and impractical. As a result of this complexity, the Commission supports the use of ‘black box” settlements. Pa. Pub. Util. Comm’n v. Peoples TWP LLC, Docket No. R-2013-2355886 (Opinion and Order entered December 19, 2013). For the following reasons, I find that the settlement, which is unopposed by any party, is in the public interest.

BACKGROUND

United is a public utility subject to the Commission’s regulatory jurisdiction. United provides water service to over 58,500 customers in portions of 8 counties and 39 municipalities in Pennsylvania.

On January 28, 2015, United filed Supplement No. 42 to Tariff Water-Pa. P.U.C. No. 7 together with supporting data for a future test year ending September 30, 2015, and projected future test year ending October 31, 2016, pursuant 66 Pa.C.S. § 1308(d). Supplement No. 42 proposed an increase in rates designed to produce a net increase of $9,592,444 in revenues. The Commission suspended Supplement No. 42 until October 29, 2015 and initiated an investigation into United’s proposed increase in base rates.

OCA, OSBA and two residential customers filed complaints against United’s proposed general rate increase. I&E entered its appearance. United, I&E, OCA and OSBA

conducted extensive formal and informal discovery throughout the proceeding. The parties have served prepared testimony on each other. United, I&E, OCA and OSBA held several settlement conferences. As a result of these conferences and the efforts of United, I&E, OCA and OSBA to examine the issues raised by the proceedings, a settlement in principle was achieved by United, I&E, OCA and OSBA prior to the date for the hearings in this proceeding. On June 1, 2015, United, I&E, OCA and OSBA advised me of the settlement in principle, and at their request, I suspended the procedural schedule.

United, I&E, OCA and OSBA have been able to agree to a rate increase and individual provisions that resolve all issues in the proceeding, and United, I&E, OCA and OSBA have agreed to a revenue allocation and rate design to recover that increase. United, I&E, OCA and OSBA are in full agreement that the settlement is in the best interests of United and its customers.

TERMS OF THE SETTLEMENT

The joint settlement petition states that United will be permitted to file a tariff supplement with rates to become effective on one day’s notice, no earlier than October 29, 2015. The proposed tariff supplement is attached to the joint settlement petition and marked as Appendix A. The proposed tariff supplement contains new rates designed to produce $7.1 million in additional annual operating revenue, based upon the pro forma level of usage of 4,292,995 thousand gallons which includes residential usage of 2,295,537 thousand gallons and commercial usage of 1,433,452 thousand gallons for the test period ending October 31, 2016.

The joint settlement petition states that the Commercial rate class and Public Authority rate class shall be combined into one rate class. The joint settlement petition provides that the new Commercial/Public Authority customer class shall be defined as set forth on Page 17 of the proposed tariff supplement attached to the joint settlement petition as Appendix A.

The increases in the rates for the separate customer classes are reflected in the proposed tariff supplement attached to the joint settlement petition as Appendix A.

The customer charge for all metered customer classes for a 5/8” meter shall be $13.75. The increases to the other meter sizes shall be approximately 25.0% as set forth in the proposed tariff supplement attached to the joint settlement petition as Appendix A.

The joint settlement petition provides that the definition of Large Industrial Tariff on Page No. 7 of United’s tariff for Large Industrial Tariff shall be modified in the proposed tariff supplement attached to the joint settlement petition as Appendix A, as follows:

Large Industrial Tariff -- Applicable to all Industrial customers that use a minimum of 84 million gallons in a calendar year. In January of each year, the actual usage for Large Industrial customer will be reviewed. If that customer did not use 84 million gallons in the preceding calendar year, then that customer will be billed at the Large Industrial Tariff rates (plus any applicable surcharges) for the difference between the customer’s actual usage and 84 million gallons. An additional bill will be sent to the customer in January when the review is completed. If the annual review shows that the customer used less than 80 million gallons in the previous year, then the customer will be removed from the Large Industrial rate. Any new customer that seeks to qualify (or any removed customer that seeks to re-qualify) for this tariff must first establish that they use 84 million gallons during a consecutive 12-month period. After the 12-month period, if they qualify, then they will be transferred to the Large Industrial tariff prospectively.

The joint settlement petition states that the amortizations set forth in United Exhibit No. TGL-1, Schedule 28, Adjustment 27, are not specifically included in the joint settlement petition except for the following amortization which the parties have submitted for approval as an integral part of the joint settlement petition and is reflected in the joint settlement petition’s base rate allowance:

|  |  |  |
| --- | --- | --- |
| Description | Amortization Period | Annual Amortization |
| Hurricane Irene Flood Damage | 10 years, effective December 5, 2012 | $30,192 |

The joint settlement petition provides that United shall use the proposed depreciation rates as stated in its base rate filing.

In accordance with 52 Pa.Code § 69.55, the joint settlement petition establishes the State Tax Adjustment Surcharge (STAS) for United at 0%, effective with the effective date of the proposed tariff supplement and the rates contained in that supplement.

The joint settlement petition states that the Distribution System Improvement Charge (DSIC) for United shall be established at 0% of billed revenues effective with the effective date of the proposed tariff supplement and the rates contained in that supplement. The DSIC shall remain at 0% of billed revenues until the quarter following the point in time at which United’s DSIC-eligible investment, net of plant funded with customer advances and customer contributions, exceeds $12.212 million. The $12.212 million is calculated to include DSIC investment made beginning October 1, 2014, the beginning of the future test year, and ending October 28, 2016, the approximate end of the fully projected future test year. The amount included in the fully projected future test year has been reduced proportionally to reflect approximately the reduction in the overall revenue requirement. The joint settlement petition states that the foregoing provision is included solely for purposes of calculating United’s DSIC, and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a fully projected future test year filing.

The joint settlement petition provides that, for purposes of calculating the Return on Equity (ROE) component of United’s DSIC, United shall use the Water Company Barometer Group ROE for DSIC Purposes contained in the most-recent Bureau of Technical Utility Services Quarterly Earnings of Jurisdictional Utilities Report as released by the Commission.

The joint settlement petition states that United’s Returned Check Charge on p. 12 of its tariff, shall be $25 per occurrence as set forth in the proposed tariff supplement attached to the joint settlement petition hereto as Appendix A.

The joint settlement petition provides that United will continue to employ the methods to reduce Unaccounted-For Water as set forth on pp. 21-24 of John Hollenbach’s Direct Testimony, UWPA Statement No. 1, and in the currently-effective version of 52 Pa.Code § 65.20.

The joint settlement petition states that, in satisfaction of the requirements of 66 Pa. C.S. § 315(e), United agrees to provide the Commission’s Bureau of Technical Utility Services, I&E, OCA and OSBA, on or before January 31, 2016, an update to UWPA Exhibit No. KHD-1, Schedules 6-1 & 6-1-1 to include actual plant additions and retirements by month for the twelve months ending September 30, 2015. On or before July 31, 2016, United shall update UWPA Exhibit No. KHD-1, Schedules 6-1 & 6-1-1 for the twelve months ending March 31, 2016. In United’s next base rate proceeding, the joint settlement petition requires United to prepare and submit a comparison of its actual expenditures and rate base additions for the twelve months ending October 31, 2016, to its projections in this case. The joint settlement petition recognizes that this is a “black box” settlement that is a compromise of the parties’ positions on various issues.

The joint settlement petition mandates that United shall not file a tariff or tariff supplement proposing a general increase in base rates earlier than January 1, 2017 with the Commission; provided, however, that the foregoing provision shall not prevent United 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 United’s rates.

The joint settlement petition explains that United has identified the increased tax deductions associated with the new tax basis unit of property repair deduction under IRC Section 481(a) (Repair Allowance) to be $6,399,410, including the “catch-up” deduction through the fully projected future test year or rate year in this proceeding. This amount will be amortized and flowed through to ratepayers over three years for state income tax purposes. In future rate cases, the annual Repair Allowance deduction will be flowed through for state income tax purposes in calculating revenue requirements. For federal income tax purposes, the cumulative Repair Allowance deduction of $6,399,410 has been normalized in this proceeding and deferred income taxes equal to 35 percent of this amount have been recognized in the balance of accumulated deferred income taxes. United will continue to normalize this deduction and record deferred federal income taxes on Repair Allowance deductions subsequent to the rate year in this proceeding.

The joint settlement petition states that United commits to proceeding with the Shavertown Manganese Removal Project and to having it completed and in service no later than October 31, 2016, except for good cause shown upon petition to the Commission, with copies of any petition being served on OCA, I&E, and OSBA.

The joint settlement petition provides that all other provisions of United’s base rate filing as reflected in Tariff Supplement No. 42, except as noted in responses to OCA IV-4, 10 and 11 (Schedule SJR-14), copies of which are attached to the joint settlement petition as Appendix D, shall be adopted without modification as reflected in the proposed tariff supplement attached to the joint settlement petition as Appendix A.

Attached to the joint settlement petition as Appendix B and incorporated into the joint settlement petition are spreadsheets showing the settlement rates by Class and Proof of Revenues.

PUBLIC INTEREST

 The terms recited above are in the public interest and balance the interests of United’s customers and the interests of United. The total increase in annual revenues of $7.1 million that United, OTS, OCA and OSBA have agreed to in the settlement petition is approximately $2.5 million less than United’s original request of $9.6 million. United requires an increase in revenue due to increases in the costs of various expenses since its last base rate case. In addition, United has experienced a reduction in overall consumption. The rate increase is also necessary due to future capital additions that United projects will occur within the fully projected future test year. As a result of these factors, United points out that its overall rate of return has declined since its last base rate case four years ago.

 While acknowledging that the agreed upon increase in revenues is less than it requested, United acknowledges that it will allow United to meet the obligations outlined above, earn a fair rate of return and provide safe, reasonable and adequate service to its customers. The agreed upon increase in annual revenues is in the public interest because the additional revenue will enable United to maintain a high quality of service and make improvements to its infrastructure.

United points out that it is undertaking construction of a new water treatment plant in Bloomsburg at a budgeted cost of $35 million that is expected to be in service by May 2016. I&E states that the joint settlement petition will allow United to continue development of its new treatment plant in the Bloomsburg. The new plant will address the recurring problem of flooding in the older facility. Providing sufficient revenue to allow construction of the Bloomsburg water treatment plant is in the public interest because it will allow United to improve service and reliability to its customers in the Bloomsburg area by eliminating interruptions in service caused by flooding in the old treatment plant.

United also points out that it is undertaking the Shavertown manganese removal project that is expected to be in service no later than October 31, 2016, at a cost of approximately $2.4 million. OCA points out that the joint settlement petition provides that United will have the Shavertown manganese removal project in service by October 31, 2016. According to OCA, this provision ensures that the Shavertown manganese removal project is not affected by the parties agreeing to a lower revenue increase than that proposed by United. Providing sufficient revenue to allow construction of the Shavertown manganese removal project is in the public interest because it will allow United to improve service its customers in the Shavertown area by improving the quality of their water.

The joint petition addresses United’s DSIC. United and OCA indicate that the joint settlement petition provides that United’s current DSIC will be reset at zero. If United files for a DSIC it agrees that its first DSIC will be effective only after the balances of the DSIC-eligible accounts, net of plant funded with customer advances and customer contributions exceed $12.212 million. This provision ensures that if United files for a DSIC, the DSIC will not include the eligible plant, up to $12.212 million claimed in this proceeding. This provision addresses concerns expressed by OCA concerning double collection of DSIC claims included in United’s base rate filing. This provision is in the public interest because United’s customers will benefit from the plant improvements through improved service and reliability but will be protected from the possibility of having to pay for the same improvement through both the DSIC and this proceeding.

 The joint settlement petition provides that, for purposes of calculating the ROE component of United’s DSIC, United shall use the Water Company Barometer Group ROE for DSIC Purposes contained in the most-recent Bureau of Technical Utility Services Quarterly Earnings of Jurisdictional Utilities Report as released by the Commission. United points out that since the joint settlement petition is a “black box” settlement, there is no litigated ROE to be used for future DSIC calculations. The parties have concluded that the use of the Commission calculated ROE is a reasonable compromise. This provision is in the public interest because United’s customers will benefit from improvements to United’s distribution system through improved service and reliability.

The joint settlement petition addresses various aspects of rate design. OCA points out that United originally proposed increasing the residential customer charge for customers with a 5/8 inch meter from $11 per month to $15 per month. OCA’s position was that the proposed increase in the customer charge properly reflected United’s cost of providing service. OSBA concurs that United’s cost of service methodology is appropriate and reasonably moves most rate classes closer to the cost of providing service. OCA contended that United’s proposed increase in the customer charge should be reduced in proportion to any reduction in the revenue requirement. The joint settlement petition provides for a residential customer charge of $13.75 per month.

The settlement also adopts OCA’s recommendation to consolidate the Commercial and Public Authority rate classes into a single class. OCA contended that the demand characteristics of the two rate classes appeared to be very similar and that customers with similar demand characteristics should be grouped together. OCA argued that United may not be appropriately assigning the customers in these rate classes to the correct customer class. By consolidating these rate classes, OCA asserts that the issue of customers being improperly assigned to rate classes is resolved and ensures that customers with similar usage characteristics are treated the same concerning the rates they pay.

OSBA opposed consolidating these two rate classes in part because it would shift revenue responsibility from Public Authority to Commercial customers. OSBA points out that while the joint settlement petition proposes to consolidate the two rate classes, the proposed rate design does not cause the Commercial class to exceed the relative level originally proposed by United. Since the rate consolidation does not impose an incremental rate increase on Commercial customers, OSBA concludes that the rate design contained in the joint settlement petition represents a fair and reasonable resolution of this issue.

OSBA contends that OCA advocated allocating United’s increase in revenues in a manner which included a Commercial class increase of 32.6%, higher than the 30.7% increase proposed by United. OSBA opposed OCA’s proposal since it would exacerbate the above average rate increase proposed by United. The joint settlement petition provides that the Commercial class will receive an increase of 31%.

OCA states that the joint settlement petition adopts OCA proposed definition for the Large Industrial rate class. According to OCA, the proposed definition concisely defines which customers are eligible for the Large Industrial rate class while providing flexibility for customers who miss the minimum usage threshold of the rate class. The flexibility provided by the proposed definition balances the interests of the Large Industrial rate class customers with the interests of United and its other customers. These provisions of the joint settlement petition listed above regarding rate design are in the public interest since they will reflect the actual costs of providing service, reduce or eliminate the subsidies that certain rate classes currently receive, promote gradualism and avoid rate shock.

The joint settlement petition addresses United’s treatment of increased tax deductions associated with the new tax basis of property repair deduction allowed under the Internal Revenue Code section 481(a). According to United, the increased deductions of nearly $6.4 million will be amortized and flowed through to ratepayers over three years for state income tax purposes. For federal tax purposes, the repair allowance deduction will be normalized. United indicates that this treatment of the repair allowance is consistent with federal and state tax laws, generally accepted accounting principles and ratemaking principles.

OCA points out that the joint settlement petition adopts OCA’s adjustments to and recommendations regarding United’s repair allowance income tax expense. According to OCA, this provision ensures that United’s treatment of the repair allowance in calculating its income tax expense is proper going forward. This provision is in the public interest because United’s ratepayers will receive the appropriate benefit from the increase in tax deductions.

United indicates that it has taken steps to reduce unaccounted for water which has resulted in a trend toward reductions, in accordance with 52 Pa.Code § 65.20. According to United, its efforts have resulted in a 28.6% reduction in the amount of unaccounted for water from 2011 to 2014. I&E points out that the joint settlement petition provides that United will continue to reduce unaccounted for water. This provision is in the public interest since it will protect ratepayers from the costs associated with water that is treated and processed but not used.

The joint settlement petition addresses the effective date and duration of the agreed upon rates embodied in the joint settlement petition. OCA points out that the original suspension date of October 29, 2015 will be the effective date of the rates under the settlement. According to OCA, this provision means that the rates will not go into effect earlier than the beginning of the fully projected future test year. United indicates that this delay does not materially interfere with its financial planning in this case.

The joint settlement petition also contains a stay-out provision where United agrees not to file for a general rate increase prior to January 1, 2017, unless in response to a Commission order or in response to fundamental changes in regulatory policies or federal tax policies affecting United’s rates. If United files its next rate case at the earliest allowed date, and that case is fully litigated, new rates would not become effective until October 2017. I&E and OCA support this provision. These two provisions of the joint settlement petition listed above addressing the effective date and proposed duration of the agreed upon rates are in the public interest because they will provide rate stability to United’s customers, which ensures that United’s customers will obtain a benefit from approval of the settlement petition.

 The agreed upon increase in annual revenues addresses concerns raised by OCA, OSBA and I&E. OCA and I&E state that the agreed upon increase in annual revenues of $7.1 million reflects an outcome consistent with what the parties may reasonably expect if they were to litigate this proceeding in its entirety and balances the interests of United and its customers. The agreed upon increase in revenues is the public interest because United’s rates will be lower than if the Commission had granted the full increase United requested.

Approving and adopting the settlement petition is also in the public interest because accepting the settlement petition will avoid the substantial time and expense involved in litigating the proceeding. Accepting the settlement petition will negate the need to examine or cross-examine witnesses, prepare main briefs, reply briefs, exceptions and reply exceptions and possibly file appeals. This is in the public interest because avoiding these expenses serves the interests of United, I&E, OCA, OSBA and United’s customers.

CONDITIONS OF SETTLEMENT

The settlement outlined in the joint settlement petition is conditioned upon the Commission’s approval of the terms and conditions contained in the joint settlement petition without modification. If the Commission modifies the joint settlement petition, United, I&E, OCA or OSBA may elect to withdraw from the joint settlement petition and may proceed with litigation and, in such event, the joint settlement petition 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 parties within five (5) business days after the entry of an order modifying the joint settlement petition. United, I&E, OCA and OSBA acknowledge and agree that the joint settlement petition, if approved, shall have the same force and effect as if United, I&E, OCA and OSBA had fully litigated this proceeding.

The joint settlement petition is proposed by United, I&E, OCA and OSBA to settle all issues in the instant proceeding. If the Commission does not approve the joint settlement petition and the proceedings continue, United, I&E, OCA and OSBA reserve their respective procedural rights, including the right to present additional testimony and to conduct full cross-examination, briefing and argument. The joint settlement petition is made without any admission against, or prejudice to, any position which United, I&E, OCA or OSBA may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding.

United, I&E, OCA and OSBA acknowledge that the joint settlement petition reflects a compromise of competing positions and does not necessarily reflect any party’s position with respect to any issues raised in this proceeding. This settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this settlement.

CONCLUSION

For the reasons set forth above, I find that the proposed settlement is in the public interest and consistent with the requirements of 66 Pa. C.S. § 1308. Accordingly, I recommend that the Commission approve the proposed settlement and that United file a tariff supplement reflecting the rates set forth in its proposed compliance tariff attached to the settlement petition as Appendix “A” to become effective on one day’s notice, no earlier than October 29, 2015.

##### CONCLUSIONS OF LAW

 1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. § 1308.

 2. United Water Company, Inc. has satisfied the requirements of Section 1308 of the Public Utility Code and Section 53.52 of the Commission’s regulations. 66 Pa.C.S. § 1308, 52 Pa.Code § 53.52.

 3. United Water Company, Inc. has met its burden of proof that it is entitled to an increase in annual revenues of $7.1 million. 66 Pa.C.S. §§ 315 and 332.

 4. No customer complainant presented evidence with respect to the claims set forth in their formal complaint; therefore, each failed to satisfy the burden of proof with respect to those claims. 66 Pa.C.S. §§ 315 and 332.

 5. The settlement filed on June 26, 2015 among United, OCA, I&E and OSBA is in the public interest and should be approved by the Commission. Pennsylvania Pub. Util. Comm’n v. York Water Co*.*, Docket No. R-00049165, (Order entered October 4, 2004).

##### ORDER

 THEREFORE,

 IT IS RECOMMENDED:

 1. That United Water Company, Inc. shall not place into effect the rates contained in Supplement No. 42 to Tariff Water-Pa. P.U.C. No. 7.

 2. That the settlement petition filed on June 26, 2015 among United Water Company, Inc., the Office of Consumer Advocate, the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement and the Office of Small Business Advocate in the above-captioned case is approved and adopted.

 3. That United Water Company, Inc. shall file a tariff supplement reflecting the rates set forth in its proposed compliance tariff attached to the settlement petition as Appendix “A” to become effective on one day’s notice, no earlier than October 29, 2015.

 4. That the stipulation for admission of evidence filed on June 26, 2015 among United Water Company, Inc., the Office of Consumer Advocate, the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement and the Office of Small Business Advocate in the above-captioned case is approved and adopted.

 5. That the following documents are admitted into the record as set forth in the stipulation for admission of evidence filed June 26, 2015:

A. United Water Company, Inc. Statements and Exhibits.

1. Testimony and Exhibits
	1. Direct Testimony of John D. Hollenbach, UWPA Statement No. 1, together with UWPA Exhibit Nos. JDH-1, JDH-2, and JDH-3;
	2. Rebuttal Testimony of John D. Hollenbach, UWPA Statement No. 1-R;
	3. Direct Testimony of Kevin H. Doherty, UWPA Statement No. 2, together with UWPA Exhibit No. KHD-1;
	4. Rebuttal Testimony of Kevin H. Doherty, UWPA Statement No. 2-R, together with UWPA Exhibit No. KHD-2;
	5. Direct Testimony of Caryl D. Jersey, UWPA Statement No. 3, together with UWPA Exhibit No. CDJ-1;
	6. Direct Testimony of Thomas G. Lippai, UWPA Statement No. 4, together with UWPA Exhibit No. TGL-1;
	7. Rebuttal Testimony of Thomas G. Lippai, UWPA Statement No. 4-R;
	8. Direct Testimony of James C. Cagle, UWPA Statement No. 5, together with UWPA Exhibit No. JCC-1;
	9. Rebuttal Testimony of James C. Cagle, UWPA Statement No. 5-R;
	10. Direct Testimony of Peiling Lin, UWPA Statement No. 6, together with UWPA Exhibit No. PL-1;
	11. Direct Testimony of Pauline M. Ahern, UWPA Statement No. 7, together with UWPA Exhibit No. PMA-1;
	12. Rebuttal Testimony of Pauline M. Ahern, UWPA Statement No. 7-R, together with UWPA Exhibit No. PMA-2;
	13. Direct Testimony of Paul R. Herbert, UWPA Statement No. 8, together with UWPA Exhibit No. PRH-1;
	14. Rebuttal Testimony of Paul R. Herbert, UWPA Statement No. 8-R;
	15. Direct Testimony of John J. Spanos, UWPA Statement No. 9, together with UWPA Exhibits Nos. JJS-1, JJS-2, and JJS-3;
	16. Rebuttal Testimony of John J. Spanos, UWPA Statement No. 9-R; and,
	17. Rebuttal Testimony of Gary S. Prettyman, UWPA Statement No. 10-R, together with UWPA Exhibits Nos. GSP-1, GSP-2, GSP-3, GSP-4, and GSP-5.
2. Statement of Reasons
3. Filing Requirements I Through XI
4. Confidential Filing Requirements addressing, in part, Filing Requirements IV (Taxes) and XI (Other Data).

B. I&E Statements and Exhibits.

1. I&E Statement No. 1, Direct Testimony of Rachel Maurer, together with I&E Exhibit No. 1;
2. I&E Non-Proprietary Statement No. 2, Direct Testimony of Justice Dagadu, together with I&E Exhibit No. 2;
3. I&E PROPRIETARY AND CONFIDENTIAL Statement No. 2, Direct Testimony of Justice Dagadu, together with I&E PROPRIETARY Exhibit No. 2;
4. I&E Statement No. 3, Direct Testimony of Jeremy B. Hubert, together with I&E Exhibit No. 3; and,
5. I&E Statement No. 4, Direct Testimony of Lisa A. Boyd, together with I&E Exhibit No. 4.

C. OCA Statements and Exhibits.

1. OCA Statement 1, Direct Testimony of Thomas S. Catlin, together with Appendix A and Schedules TSC-1 though TSC-19 (inclusive);
2. OCA Statement 2, Direct Testimony of Jennifer L. Rogers, together with Schedules JLR-1 through JLR-5 (inclusive);
3. OCA Statement 3, Direct Testimony of Ashley E. Everette, together with Schedules AEE-1 through AEE-4 (inclusive), and Attachments (OCA-III-19, OCA-VIII-14, OCA-VIII-15, OCA-IX-3, OCA-II-64, OCA-IX-1, I&E-RE-67, and I&E-RE-69);
4. OCA Statement 4, Direct Testimony of David C. Parcell, together with OCA Exhibit DCP-1 (Schedules Nos. 1-12) and Attachment 1; and,
5. OCA Statement 5, Direct Testimony of Scott J. Rubin, together with Appendix A and Schedules SJR-1 through SJR-14 (inclusive);

D. OSBA Statements and Exhibits.

OSBA Statement No. 1, Rebuttal Testimony and Exhibit of Brian Kalcic (Schedule BK-1).

 6. That two copies of each filing statement and exhibit listed in the stipulation for admission of evidence be filed with the Secretary of the Pennsylvania Public Utility Commission, unless previously filed.

7. That all filings designated as “confidential” be placed in the non-public folders by the Secretary of the Pennsylvania Public Utility Commission.

8. That the investigation at Docket R-2015-2462723 be terminated and marked closed.

 9. That the complaint filed by the Office of Consumer Advocate in this proceeding at Docket Number C-2015-2465209 be terminated and marked closed.

 10. That the complaint filed by the Office of Small Business Advocate in this proceeding at Docket Number C-2015-2466594 be terminated and marked closed.

 11. That the complaint filed by Amy Patton in this proceeding at Docket Number C-2015-2468927 be terminated and marked closed.

 12. That the complaint filed by Robert Rosten in this proceeding at Docket Number C-2015-2471689 be terminated and marked closed.

Date: July 13, 2015 /s/

David A. Salapa

 Administrative Law Judge