



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY
PLEASE
REFER TO
OUR FILE

ISSUED: April 27, 2007

R-00061625
R-00061625 C0001

EDMUND J BERGER ESQUIRE
BERGER LAW FIRM PC
2104 MARKET STREET
CAMP HILL PA 17011

Pennsylvania Public Utility Commission
Office of Consumer Advocate

v.
Borough of Phoenixville

DOCUMENT
FOLDER

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Recommended Decision of Administrative Law Judge Charles E. Rainey, Jr.

An original and nine (9) copies of signed exceptions to the decision, if any, MUST BE FILED WITH THE SECRETARY OF THE COMMISSION, 2ND FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265; a copy in the hands of the Office of Special Assistants Third Floor; and a copy in the hands of each party of record no later than **May 4, 2007** by 4:30 P.M. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions. A certificate of service shall be attached to the filed exceptions.

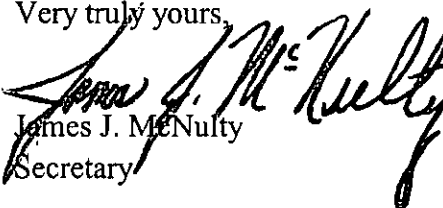
Exceptions shall obey 52 Pa. Code 5.533 and 5.535, particularly the 40-page limit for exceptions. Exceptions should be clearly labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

Reply exceptions will not be accepted for filing and will not be entertained by the Commission.

Any reference to specific sections of the Administrative Law Judge's Recommended Decision shall include the page number(s) of the cited section of the decision.

Parties are also requested to provide the Commission's Office of Special Assistants with a copy of exceptions/reply exceptions on a computer disk, 3 1/2" in size, in Microsoft Word 6.0 format. If Word 6.0 is not available, either Wordperfect 5.1 or ASCII format is acceptable.

Very truly yours,


James J. McNulty
Secretary

Encls.
Certified Mail
Receipt Requested
MH

BTL

See attached list for additional parties of record.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-00061625
Office of Consumer Advocate	:	R-00061625C0001
	:	
v.	:	
	:	
Borough of Phoenixville	:	

RECOMMENDED DECISION

DOCKETED
APR 27 2007

Before
Charles E. Rainey, Jr.
Administrative Law Judge

**DOCUMENT
FOLDER**

HISTORY OF THE PROCEEDING

On October 26, 2006, Borough of Phoenixville Sewer Fund (Borough of Phoenixville Sewer) filed with the Pennsylvania Public Utility Commission (Commission) Supplement No. 13 to Tariff Sewer – Pa. P.U.C. 1 (Supplement No. 13), together with supporting data, proposing increases in rates, designed to produce increased revenue received from customers of \$72,575 pursuant to Section 1308(d) of the Public Utility Code, to become effective on January 1, 2007. The proposed rates represent an approximate 98.9% increase in current revenues. Residential customers residing outside the Borough of Phoenixville using 13,400 gallons of water per quarter would have experienced an increase from \$34.30 to \$68.25 under the proposed rates. Flat rate residential customers residing outside the Borough of Phoenixville would have experienced an increase from \$46.49 to \$92.49 per quarter under the proposed rates.

By Order entered December 21, 2006, the Commission suspended the Borough of Phoenixville Sewer's filing until August 1, 2007, and instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. The matter was assigned to the Office of Administrative Law Judge (OALJ) for Alternative Dispute Resolution, if

possible, or the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.

On January 4, 2007, Borough of Phoenixville Sewer filed Supplement No. 14 suspending the application of the proposed rates until August 1, 2007, in compliance with the Commission's Order. Supplement No. 15 was also filed at that time, suspending the effective dates of rates until October 1, 2007, to allow for mediation.

On December 7, 2006, the Office of Consumer Advocate (OCA) filed a formal complaint in regard to the proposed rate increase. On December 22, 2006, the Office of Trial Staff (OTS) filed a notice of appearance in the proceedings.

On February 2, 2007, a telephonic prehearing conference was held. The assigned administrative law judge presided. The parties present included the Borough of Phoenixville Sewer, OTS and OCA. During the prehearing conference, a schedule for submitting written testimony, holding hearings and filing briefs was established.

On February 2, 2007, immediately following the telephonic prehearing conference, the parties participated in a mediation session before OALJ mediator Bruce Bigelow. Subsequent to the mediation session, the parties held their own conferences, engaged in discovery, and consequently were able to arrive at a settlement of all issues in the rate case. On March 16, 2007, the parties filed a "Joint Petition for Settlement of Rate Proceeding"¹ (Joint Petition for Settlement). The Joint Petition for Settlement (and appendices attached thereto) is appended to this Recommended Decision at Attachment "A." By order dated March 16, 2007, the administrative law judge suspended the procedural schedule in the case.

¹ By electronic mail message dated March 19, 2007, counsel for the Borough of Phoenixville Sewer asked the assigned administrative law judge not to issue his recommended decision until the Borough of Phoenixville had taken official action to approve the settlement. Counsel for the Borough of Phoenixville Sewer stated in his electronic mail message that he would inform the administrative law judge when that occurred. On April 19, 2007, counsel for the Borough of Phoenixville Sewer informed the administrative law judge by electronic mail message that the Borough of Phoenixville would be taking official action on April 24, 2007, to approve the settlement.

For the reasons set forth below, I find that the Joint Petition for Settlement is just and reasonable and in the public interest. I therefore recommend approval of the Joint Petition for Settlement in its entirety and without modification.

DISCUSSION

It is the policy of the Commission to encourage settlements. 52 Pa. Code §5.231. In its policy statement regarding settlements in major rate cases the Commission provides in pertinent part:

In the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding.

52 Pa. Code §69.401

Borough of Phoenixville Sewer, OTS and OCA (collectively "Joint Petitioners"), have agreed to a settlement that resolves all of the issues in this rate case proceeding. The Joint Petitioners agree that the settlement is in the public interest. Each of the Joint Petitioners provided statements in support of the settlement. See, Appendices "C," "D" and "E" attached to the Joint Petition for Settlement.

Terms of the Joint Petition for Settlement

The key terms of the Joint Petition for Settlement are as follows:

1. Borough of Phoenixville Sewer will be permitted to increase annual operating revenues by \$65,000.00 through an increase in base rates. To implement the increase, Borough of Phoenixville Sewer will be permitted to file a tariff supplement in the form that appears at Appendix "A" to the Joint Petition for Settlement.

2. The allowed increase in base rate revenues is shown in the proof of revenues that appears at Appendix "B" to the Joint Petition for Settlement. The stipulated rate design incorporates the following elements:

(a) An increase in the minimum charge from \$32.00 to \$55.00.

(b) Elimination of the current block rates for metered service and replacement with a single metered rate.

(c) An increase in the rates for metered service from the current block rates of \$2.56 per 1,000 gallons for consumption up to 1 million gallons; \$2.30 per 1,000 gallons for consumption from 1 million gallons to 5 million gallons; and \$1.94 per 1,000 gallons for amounts consumed over 5 million gallons, to a single rate of \$4.36 per 1,000 gallons for all consumption.

(d) The residential flat rate will increase from \$46.49 to \$87.69 per quarter and the commercial flat rate will increase from \$69.73 to \$131.52.

(e) Rates for metered consumption reflect an average increase of 88.62 % and the flat rates reflect an increase of 88.62%.

(f) Increases in metered consumption rates for the typical metered residential customer would be 70.50%, an increase which is lower than the average due to the elimination of the

declining block rates which results in greater increases to larger water/sewer users.

3. If the stipulated rates are adopted, Borough of Phoenixville Sewer agrees that it will not file with the Commission a tariff or tariff supplement proposing a general increase in rates prior to 12 months from the date rates in this proceeding are approved by the Commission.²

Analysis

The Joint Petition for Settlement is just and reasonable and in the public interest for the reasons discussed below.

In its original filing, Borough of Phoenixville Sewer proposed to increase annual rates by \$72,575 or 98.9%. The proposed settlement, however, results in an increase in annual rates of \$65,000 or approximately 88.62%. The proposed settlement therefore results in a lesser rate increase than the one originally filed by Borough of Phoenixville Sewer. I also note that under Borough of Phoenixville Sewer's original filing, flat rate residential customers would have seen their rates increase by 98.95% from \$46.49 to \$92.49 per quarter. However, under the proposed settlement, flat rate residential customers will experience an 88.6% increase, from \$46.49 to \$87.69 per quarter. The settlement rates also result in a lower increase for metered customers than the rates proposed by Borough of Phoenixville Sewer in its original filing. Under the original filing, metered residential customers using 13,400 gallons of water per quarter would have seen a 98.96% increase in rates from \$34.30 to \$68.25. The proposed settlement eliminates the block rate structure and establishes a uniform usage rate of \$4.36 per 1000 gallons. Under the proposed settlement, metered residential customers using 13,400 gallons per quarter will experience a 70.50% increase in rates from \$34.30 to \$58.42. See, Appendix E to Joint Petition for Settlement, "Statement in Support of Settlement of Office of Consumer Advocate" at 2-3.

² The Joint Petition for Settlement provides that Borough of Phoenixville Sewer would be permitted to file for a general rate increase in less than a year from the entry date of the Commission's order approving the settlement, if it is done in compliance with Commission orders or in response to fundamental changes in state or federal law or regulatory policies affecting Borough of Phoenixville Sewer's rates.

And as the OCA notes, the proposed settlement's elimination of the block rate structure in favor of a single consumption rate for all usage, is consistent with Commission policy encouraging water conservation (52 Pa. Code §65.20). Id. at 3.

The proposed settlement also includes a stay-out provision. The proposed settlement provides that Borough of Phoenixville Sewer will not file for another general rate increase before a year from the date that the Commission enters an order approving the settlement. The stay-out provision will thus afford ratepayers a level of rate stability over a significant period of time.

For all of the foregoing reasons, I find that the Joint Petition for Settlement is just and reasonable and in the public interest. I therefore recommend approval of the Joint Petition for Settlement in its entirety and without modification.

ORDER

THEREFORE,

IT IS RECOMMENDED (Subject to Commission Approval):

1. That the Joint Petition for Settlement of Rate Proceeding filed by Borough of Phoenixville Sewer Fund, the Office of Trial Staff and the Office of Consumer Advocate at Docket Nos. R-00061625 and R-00061625C0001 is approved in its entirety and without modification.

2. That the Borough of Phoenixville Sewer Fund shall be permitted to increase annual operating revenues in the total amount of \$65,000.00 consistent with the rates set forth in Appendix A to the Joint Petition for Settlement of Rate Proceeding.

3. That the Borough of Phoenixville Sewer Fund shall be permitted to file a tariff supplement incorporating the terms of the settlement and changes to its rates as set forth in Appendix A to the Joint Petition for Settlement of Rate Proceeding, to become effective upon

one (1) day's notice after entry of the Commission's order approving the Joint Petition for Settlement of Rate Proceeding.

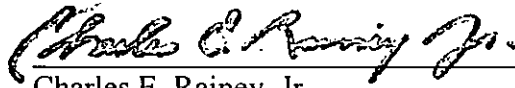
4. That the Borough of Phoenixville Sewer Fund shall be precluded from filing for a general rate increase pursuant to 66 Pa. C.S. §1308(d) prior to twelve (12) months from the entry date of the Commission's order approving the Joint Petition for Settlement of Rate Proceeding.

5. That Ordering Paragraph Number 4 shall not preclude the Borough of Phoenixville Sewer Fund 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 state or federal law or regulatory policies affecting Borough of Phoenixville Sewer Fund's rates.

6. That the complaint of the Office of Consumer Advocate at Docket No. R-00061625C0001 is deemed satisfied.

7. That upon acceptance and approval by the Commission of the tariff supplement filed by the Borough of Phoenixville Sewer Fund, consistent with this Order, this proceeding shall be marked closed.

Date: April 24, 2007



Charles E. Rainey, Jr.
Administrative Law Judge

ATTACHMENT A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
MAR 16 2007
PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

BOROUGH OF PHOENIXVILLE

DOCKET NOS. R-00061625, et al.

TO ADMINISTRATIVE LAW JUDGE CHARLES E. RAINEY, JR:

**JOINT PETITION FOR SETTLEMENT
OF RATE PROCEEDING**

I. INTRODUCTION

The Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission ("Commission"), the Office of Consumer Advocate ("OCA"), and Borough of Phoenixville Sewer Fund ("Borough of Phoenixville Sewer" or the "Company"), all of the active parties to the above-captioned proceeding (hereinafter collectively referred to as the "Joint Petitioners"), hereby join in this "Joint Petition for Settlement of Rate Proceeding" ("Settlement" or "Joint Petition") and hereby respectfully request that the Administrative Law Judge ("ALJ") and the Commission approve this Settlement.

As fully 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 a net increase in annual operating revenues of \$65,000.00. The Joint Petitioners have agreed to make every effort to obtain approval of the Settlement and implementation of the Settlement rates at the earliest possible date.

II. BACKGROUND

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

1. Borough of Phoenixville Sewer Fund is a public utility subject to the Commission's regulatory jurisdiction. Borough of Phoenixville Sewer Fund provides wastewater service to over 5,000 customers inside the Borough of Phoenixville and to 66 customers located beyond the boundaries of the Borough of Phoenixville, in East Pikeland Township and Schuylkill Township, Chester County.
2. On September 27, 2006, Borough of Phoenixville Sewer Fund filed with the Commission Supplement No. 13 to Tariff Sewer - Pa. P.U.C. No. 1 ("Supplement No. 13"), together with supporting data, proposing increases in rates, designed to produce increased revenue received from customers of \$72,575 pursuant to Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d), to become effective on January 1, 2006. This represents an approximate 98.9% increase in current revenues. The proposed rates would have increased for customers residing outside the Borough from \$34.30 to \$68.25 for residential customers using 13,400 gallons of water per quarter and from \$46.49 to \$92.49 for a flat rate residential customer.

3. At Public Meeting of December 21, 2006, the Commission instituted an inquiry and investigation of Supplement No. 13 and application of the proposed rates was suspended by statute for a period of up to seven months or until August 1, 2007, unless otherwise directed by Order of the Commission.
4. On January 4, 2007, Borough of Phoenixville Sewer filed Supplement No. 14 suspending the application of the proposed rates until August 1, 2007, in compliance with the Commission's Order of December 21, 2006 and 66 Pa.C.S. §1308(d). Supplement No. 15 was also filed at that time, suspending the effective date of rates until October 1, 2007 to allow for mediation.
5. The Office of Consumer Advocate (OCA) filed a Formal Complaint against the proposed rate increase on December 7, 2006.
6. The Office of Trial Staff (OTS) filed a notice of appearance on December 22, 2006.
7. Borough of Phoenixville Sewer provided answers to Data Requests from the Commission's Bureau of Fixed Utility Services. In addition, Joint Petitioners undertook formal and informal discovery and Borough of Phoenixville Sewer provided responses to such discovery.
8. An initial prehearing conference was scheduled before Administrative Law Judge Charles E. Rainey, Jr. and held on for February 2, 2007.

9. Following the initial prehearing conference, the Joint Petitioners participated in a mediation before Commission mediator Bruce Bigelow. Following that mediation session, the parties exchanged telephone calls and e-mail to determine whether a settlement could be reached in this matter. As a result of these conferences and the efforts of the Joint Petitioners to examine the issues presented by responses to interrogatories and informal discussions, a settlement in principle was achieved by the Joint Petitioners.

10. 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 rate design to recover said increase. The Joint Petitioners are in full agreement that the Settlement is in the best interests of Borough of Phoenixville Sewer Fund and its customers.

The Settlement is set forth in the following Section.

III. SETTLEMENT

1. The Joint Petitioners agree as follows:

- a. Borough of Phoenixville Sewer will be permitted to increase annual operating revenues by \$65,000.00 through an increase of this amount in base rates. To implement this increase, Borough of Phoenixville Sewer will be permitted to file a tariff supplement in the form attached hereto as Appendix "A" to become effective on one day's notice following the date of entry of the Commission's Order approving the Settlement. The Joint Petitioners would

request that the Settlement be considered by the Commission at the earliest practical date because the prospect of an early effective date was considered in negotiating the amount of the agreed upon increase.

- b. The allowed increase in base rate revenues is shown in the proof of revenues attached as Appendix "B." The stipulated rate design incorporates the following elements: (1) an increase in the minimum charge from \$32.00 to \$55.00; (2) elimination of the current block rates for metered service and replacement with a single metered rate; (3) an increase in the rates for metered service from the current block rates of \$2.56 per 1,000 gallons for consumption up to 1 million gallons; \$2.30 per 1,000 gallons from 1 million gallons to 5 million gallons; and \$1.94 per 1,000 gallons for amounts consumed over 5 million gallons, to a single rate of \$4.36 per 1,000 gallons for all consumption; an increase in the residential flat rate from \$46.49 to \$87.69 per quarter and an increase in the commercial flat rate from \$69.73 to \$131.52. Rates for metered consumption reflect an average increase of 88.62% and the flat rates set forth here reflect an increase of 88.62%. Increases in metered consumption rates for the typical metered residential customer would be 70.50%, an increase which is lower than the average due to

the elimination of the declining block rates which results in greater increases to larger water/sewer users.

- c. This Settlement is contingent upon adoption of the rates proposed in Appendix A. If these rates are adopted, the Borough of Phoenixville Sewer Fund agrees that it will not file with the Commission a tariff or tariff supplement proposing a general increase in rates prior to 12 months from the date rates in this proceeding are approved by the Commission; provided, however, that the foregoing provision shall not prevent Borough of Phoenixville Sewer 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 state or federal law or regulatory policies affecting Borough of Phoenixville Sewer's rates.

IV. CONDITIONS OF SETTLEMENT

1. 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. This Settlement is proposed by the Joint Petitioners to settle certain issues in the instant proceeding. 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.

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.

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

3. Borough of Phoenixville Sewer Fund, OTS, and OCA have attached to this Settlement, as Appendices "C", "D", and "E", respectively, Statements of Support setting forth the bases upon which they believe the Settlement is fair, just and reasonable and is, therefore, in the public interest.

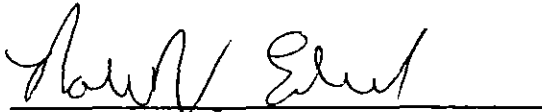
4. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their rights to file Exceptions.

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

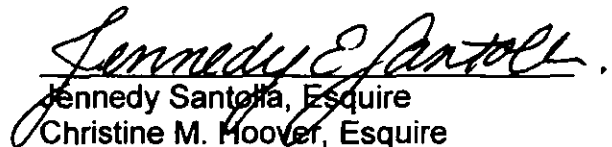
1. That the Honorable Administrative Law Judge Charles E. Rainey, Jr. and the Commission approve this Settlement including all terms and conditions thereof;
2. That the Commission's Investigation at R-00061625 and the complaint of OCA at R-00061625C0001 be marked closed;

3. That the Commission enter an order consistent with this Settlement, terminating the proceeding and authorizing Borough of Phoenixville Sewer Fund to file the tariff attached as Appendix "A" effective for service rendered on and after the date of such order.

Respectfully submitted,



Robert Eckenrod, Esquire
Office of Trial Staff
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265



Kennedy Santolla, Esquire
Christine M. Hoover, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923



Edmund J. Berger, Esq.
BERGER LAW FIRM, P.C.
2104 Market Street
Camp Hill, PA 17011

Counsel for Borough of Phoenixville Sewer Fund

Dated: March 16, 2007

APPENDIX A
FORM OF TARIFF SUPPLEMENT

Supplement No. 16 to
Sewer – Pa. P.U.C. No. 1

BOROUGH OF PHOENIXVILLE
RATES, RULES AND REGULATIONS
GOVERNING THE FURNISHING OF SEWAGE SERVICE
IN
EAST PIKELAND TOWNSHIP, CHESTER COUNTY
AND
SCHUYLKILL TOWNSHIP, CHESTER COUNTY
PENNSYLVANIA

NOTICE

Issued: October 27, 2006

Effective:

By:

Borough Manager
Borough of Phoenixville
140 Church Street
Phoenixville, PA 19460

This Tariff Supplement Increases Rates

Supplement No. 16 to
Sewer – Pa. P.U.C. No. 1
Eighth Revised Page No. 1A
Cancelling

BOROUGH OF PHOENIXVILLE

Seventh Revised Page No. 1A

LIST OF CHANGES MADE BY THIS TARIFF

This tariff increases the Borough's rates for sewer service in accordance with the Commission's Order of _____ at Docket No. R-00061625.

Issued: October 27, 2006

Effective: _____

BOROUGH OF PHOENIXVILLE

TABLE OF CONTENTS

	<u>Page</u>	
Title Page.....	1	Supplement No. 16
List of Changes.....	1a	Eighth Revised
Table of Contents.....	1	Eighth Revised
Rules and Regulations		
Service Connection Upon Notice... 3		Original
Sewage Receptacle Use Restricted... 3		Original
Lateral Extensions; Maintenance.....3		Original
Connection at Property Owners’ Expense; Permit & Supervision..... 3		Original
Prohibited Practice..... 4		Original
Miscellaneous Regulations..... 4,5,6		Original
Certain Substances not to be Discharged to Sewer System.....6		Original
Borough Manager’s Authority.....6		Original
Conditions for Discharge of Industrial and Commercial Waste...6,7		Original
Application of Flat Rate and Meter Rate Schedules..... 7		Original
Meter Rates—Water Rates, Sewage Flow Meters.....7		Original
Meter Rate Billings & Penalty Provisions.....8		Original
Rules re Washing Machine Drain.... 8		Original
Separate Units..... 8		Original
Flat Rate Billings & Penalty Provisions.....8		Original
Schedule of Flat Rates..... 9		Eighth Revised
Schedule of Meter Rates..... 10		Eighth Revised

BOROUGH OF PHOENIXVILLE

SCHEDULE OF FLAT RATES (I)
(PER QUARTER)

Residential	\$87.69	(I)
Commercial	\$131.52	(I)

BOROUGH OF PHOENIXVILLE

SCHEDULE OF METER RATES (I)

Quarterly Charges -- For Consumption
Within Calendar Quarter Per 1,000 Gallons
(Subject to Minimum Charges Below)

For All Consumption \$4.36 (I)

Quarterly Minimum Charges

For Customers With Consumption Less Than 12,500 gallons in a
Calendar Quarter (for such customers, the minimum charge is imposed
in lieu of the consumption charge) \$55.00 (I)

BOROUGH OF PHOENIXVILLE SEWER FUND (OUTSIDE BOROUGH OPERATIONS)

APPENDIX B

PROOF OF REVENUES

	Present Rates	Increase	Settlement Rates
Metered Customers			
Quarterly Minimum Charge (charge only applies if billed consumption < \$32.00/Q)	\$32.00	\$23.00	\$55.00
Average Quarterly Consumption Below Minimum Charge (1,000s of gallons)	82.52		82.52
Supplemental Quarterly Revenues from Minimum Charge (1st block rate X Below-Minimum Consumption)	\$211.25	\$151.84	\$363.09
Annual Minimum Charge Revenues	\$845.00	\$607.35	\$1,452.35
Annual Metered Consumption	30,399,300		30,399,300
– Block 1	8,928,300		8,928,300
– Block 2	16,000,000		16,000,000
– Block 3	5,471,000		5,471,000
Consumption Rates (per 1,000 gallons)			
– up to 1,000,000 gallons per quarter	\$2.56	\$1.80	\$4.36
– 1,000,000 to 5,000,000 gallons per quarter	\$2.30	\$2.06	\$4.36
– over 5,000,000 gallons per quarter	\$1.94	\$2.42	\$4.36
2006 Consumption Charges			
– up to 1,000,000 gallons per quarter	\$22,856.45	\$16,113.33	\$38,969.77
– 1,000,000 to 5,000,000 gallons per quarter	\$36,800.00	\$33,035.96	\$69,835.96
– over 5,000,000 gallons per quarter	\$10,613.74	\$13,265.79	\$23,879.53
TOTAL	\$70,270.19	\$62,415.08	\$132,685.27
TOTAL METERED REVENUES	\$71,115.19	\$63,022.43	\$134,137.62
Flat Rate Customers	12		12
Typical Residential Flat Rate Customer – Quarterly	\$46.49	\$41.20	\$87.69
Typical Residential Flat Rate Customer – Annual	\$185.96	\$164.80	\$350.76
TOTAL FLAT RATE REVENUES	\$2,231.52	\$1,977.57	\$4,209.09
TOTAL REVENUES	\$73,346.71	\$65,000.00	\$138,346.71

APPENDIX C

**STATEMENT IN SUPPORT
OF SETTLEMENT OF
BOROUGH OF PHOENIXVILLE SEWER FUND**

Borough of Phoenixville Sewer Fund's
Statement in Support of
Settlement Petition at R-00061625

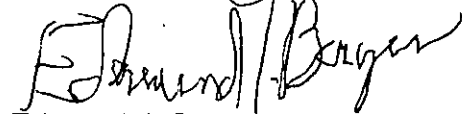
The Borough of Phoenixville Sewer Fund ("Borough of Phoenixville" or the "Borough") believes that the Settlement is in the best interests of the Borough of Phoenixville and its customers, and is therefore in the public interest. The Settlement was achieved after investigation of Borough of Phoenixville's operations, through both formal and informal discovery (including on-site visits) by the Office of Trial Staff ("OTS") and the Office of Consumer Advocate ("OCA"), and after discussions and negotiations among the parties as to the revenue level, O&M expenses, rate base, rate design and other matters that would be in the public interest.

Borough of Phoenixville believes that the proposed settlement providing for an increase in rates of \$65,000 over current rates, or approximately 88.62% of the \$72,575 requested represents an appropriate result given the 14-year period since the Borough last increased its rates and the significant increases in costs that the Borough has experienced during that period of time. The Borough would also note the moderation of the rate increase for metered residential customers through elimination of the block rate design and its replacement with a single consumption rate for all usage. Under this rate design, the typical metered residential customer will see a 70% increase in rates rather than the 88.62% average increase.

This settlement is the result of compromises by all parties. Borough of Phoenixville believes a fair and reasonable compromise has been achieved in

this case, and fully supports the Settlement. Borough of Phoenixville respectfully requests the Commission's expeditious review and approval of the Settlement, so that rates can be implemented as soon as possible.

Respectfully submitted,



Edmund J. Berger

Berger Law Firm, P.C.
2104 Market Street
Camp Hill, PA 17011

Attorney for Borough of
Phoenixville Sewer Fund

Dated: March 16, 2007

APPENDIX D

**STATEMENT IN SUPPORT
OF SETTLEMENT OF
OFFICE OF TRIAL STAFF**

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
 v. : Docket Nos. R-00061625, et al.
 :
 Borough of Phoenixville :

OFFICE OF TRIAL STAFF STATEMENT
IN SUPPORT OF JOINT PETITION FOR SETTLEMENT

TO ADMINISTRATIVE LAW JUDGE CHARLES E. RAINEY, JR.:

The Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutor, Robert V. Eckenrod, hereby respectfully submit that the terms and conditions of the foregoing Joint Petition for Settlement (Settlement) are in the public interest and represent a fair, just and reasonable and equitable balance of the interests of the Borough of Phoenixville (“Borough”) and its customers. The parties to this Settlement (“Joint Petitioners”) conducted extensive discovery and negotiations sessions and as a result, OTS, the Office of Consumer Advocate (“OCA”) and the Borough have agreed upon the terms embodied in the foregoing Settlement. This request is based upon OTS’ conclusion that the Settlement is in the public interest as supported by the following factors:

I. BACKGROUND

1. On October 26, 2006, the Borough filed with the Commission Supplement Tariff No. 13 to Tariff Sewer – Pa. P.U.C. No. 1 to become effective January 1, 2007, containing proposed changes in rates, rules and regulations calculated to produce \$72,575 (98.9%) in additional revenues. By Secretarial Letter dated July 6, 2006, the Borough

was granted an extension to file using a December 31, 2005 test year until October 28, 2006.

2. By Order entered December 21, 2006, the Commission instituted an investigation to determine the lawfulness, justness and reasonableness of the proposed rates, rules and regulations. The Order directed the Office of Administrative Law Judge to assign the matter to an Administrative Law Judge ("ALJ") for expedited Alternative Dispute Resolution, if possible, or to schedule such hearings as necessary for the ALJ to render a Recommended Decision. Pursuant to 66 Pa. C.S. § 1308(d) of the Public Utility Code, the filing was suspended by operation of law until August 1, 2007, unless otherwise directed by Order of the Commission.

3. On December 22, 2006, OTS filed its Notice of Appearance in this proceeding.

4. The Borough notified Mediator Bruce Bigelow that it intended to participate in the mediation process and filed a 60-day extension of their respective tariffs. The formal proceeding was assigned to Administrative Law Judge Charles E. Rainey, Jr.

5. A Prehearing Conference was held on October February 2, 2007 in Harrisburg. Immediately following the Prehearing Conference, the parties convened a mediation session.

6. The parties undertook both formal and informal discovery during the proceedings.

7. Commission Rules and Regulations encourage settlement of proceedings and, consequently, the parties convened frequent and extensive conferences and

discussions over the course of this proceeding. These discussions ultimately resulted in a comprehensive stipulation of all issues in controversy and an agreement in principle was reached on March 16, 2007.

II. SETTLEMENT TERMS AND PUBLIC INTEREST

8. The exact terms of the settlement are contained on pages 4 through 6 of the Joint Petition. OTS submits that the settlement terms represent a balance of the interests of the Borough's customers and the interests of the Borough. Consequently, the settlement, as proposed, is in the public interest and should be approved by the Commission for the following reasons:

a. The Settlement provides for an increase of \$65,000 in the Borough's current annual operating revenue. While, admittedly, the increase represents approximately 90% of the Borough's original rate request, it is the position of OTS that the Borough's filing justified a level of revenue in this amount. Additionally, this level of revenue provides the Borough with an adequate rate of return which will allow it to continue to operate its wastewater system as necessary to provide adequate and reliable service to its customers.

b. Additionally, the Borough has agreed that it cannot file another base rate case prior to 12 months from the date rates in this proceeding are approved by the Commission. This "stay-out" provision provides a period of rate stability for the customers of the Borough that they otherwise might not have enjoyed had the case been fully litigated.

III. CONCLUSION

9. Based upon OTS' analysis of the filing, acceptance of this proposed

Settlement is in the public interest because 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 rate case expenses. Moreover, the Borough is assured additional revenues which will assist it in providing and maintaining safe and adequate service.

10. OTS further submits that the acceptance of the foregoing settlement will negate the need for any direct and cross-examination of witnesses, the preparation of main briefs, reply briefs, exceptions and reply exceptions, and the filing of possible appeals. The avoidance of further rate case expense by settlement of this base rate case proceeding serves the interests of the Borough and its customers.

11. The Settlement is conditioned upon the Commission's approval of all terms and conditions 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 Companies or OTS as provided therein.

12. OTS' agreement to settle this case is made without any admission or prejudice to any position that OTS might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by any of the Joint Petitioners.

13. If the ALJ recommends that the Commission adopt the Settlement as proposed, OTS has agreed to waive the filing of Exceptions. However, OTS has not waived its rights 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

ALJ in his Recommended Decision. OTS has also reserved the right to file Reply Exceptions to any Exceptions that may be filed by the Companies.

WHEREFORE, the Commission's Office of Trial Staff represents that it supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judge Charles E. Rainey, Jr., recommend, and the Commission subsequently approve, the foregoing Joint Petition for Settlement, including all terms and conditions contained therein.

Respectfully submitted,



Robert V. Eckenrod
Prosecutor
Attorney I.D. No. 84889

Office of Trial Staff

Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265
(717) 783-6155

Dated: March 16, 2007

APPENDIX E

**STATEMENT IN SUPPORT
OF SETTLEMENT OF
OFFICE OF CONSUMER ADVOCATE**

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

BOROUGH OF PHOENIXVILLE
SEWER FUND

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Docket No. R-00061625

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

The Office of Consumer Advocate of the Commonwealth of Pennsylvania (OCA), one of the signatory parties to the Joint Petition for Settlement of Rate Investigation (Settlement), finds the terms and conditions of the Settlement to be in the public interest for the following reasons:

I. INTRODUCTION

On October 27, 2006, Borough of Phoenixville (Phoenixville or Borough) filed Supplement No. 13 to Tariff Sewage - Pa. P.U.C. No. 1, to become effective January 1, 2007. The Borough, by filing this tariff supplement, seeks Commission approval of rates and rate changes that would increase the level of rates that it charges for providing service to its ratepayers. The Borough proposed an estimated annual increase in base rate revenues of \$72,575 which is an approximate 98.9% increase in the Borough's annual revenues at present rates. Under the Borough's proposal, for customers outside the Borough of Phoenixville, the proposed rates would increase from \$34.30 to \$68.25 per quarter, or by 98.95%, for a metered residential

customer using 13,400 gallons of water per quarter and from \$46.49 to \$92.49, or by 98.95% for a flat-rate residential customer.

On December 6, 2006, the OCA filed a Formal Complaint against the proposed rate increase. No other Formal Complaints or Rate Protests were filed in this matter. By Order entered December 21, 2006, the Commission suspended Supplement No. 13 until August 1, 2007, and instituted an investigation into the reasonableness of the proposed rates. The case was assigned to Administrative Law Judge Charles E. Rainey, Jr. The Borough agreed to participate in the PUC's Mediation process, and the case was assigned to Mediator Bruce Bigelow.

A telephonic prehearing conference was held on February 2, 2007, which was attended by the Borough, Office of Trial Staff (OTS), and OCA. A formal mediation session was also held on that date. The Borough and Statutory parties participated in a number of other discussions, resulting in this Settlement. The OCA submits that the proposed Settlement is in the public interest for the reasons discussed below.

II. REVENUES AND RATE DESIGN

The Borough proposed to increase revenues by \$72,575 or approximately 98.9%. The proposed Settlement provides for annual revenue increase of no more than \$65,000, or approximately 88.62%. This represents a reduction from the additional annual revenues proposed by the Borough.

Based on the OCA's analysis of the Borough's filing, the proposed revenues in the Settlement represent an amount which, in the OCA's view, would be within the range of the likely outcomes in the event of full litigation of the case. The Borough's original proposed rates would have increased from \$46.49 to \$92.49, or by 98.95% for a flat-rate residential customer.

Under the proposed settlement, the flat-rate would increase to \$87.69, or by 88.6%. For metered customers, the proposed settlement also eliminates the block rate structure and establishes a uniform usage rate of \$4.36 per 1000 gallons. The impact on the quarterly bill of the average customer using 13,400 gallons per quarter is as follows:

Total for an Average Residential Customer (13,400 gallons per quarter)		
Current Rates	\$34.30	Percent Increase
Borough's Original Proposal	\$68.21	98.96%
Settlement Rates	\$58.42	70.50%

Further, this is consistent with the PUC's policy to encourage water conservation. 52 Pa. Code §65.20.

III. STAY OUT

The proposed Settlement prohibits the Borough from filing another general rate increase for one year from the entry date of the Commission order approving this settlement. Accordingly, if Borough files for a rate increase immediately at the end of the one year period, and if the next case is fully litigated, the proposed stay out provision would prevent another rate increase before February 2009 if this case is finalized in May 2007. Thus, the Borough's ratepayers will be assured of some level of rate stability.

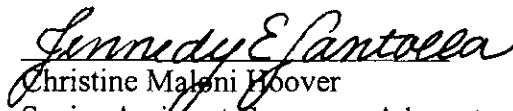
IV. CONCLUSION

The terms and conditions of the proposed Settlement of this rate proceeding represent a fair and reasonable resolution of the issues and claims arising in this proceeding. If approved, the proposed Settlement would provide lower revenues compared to the Borough's proposal and promote conservation. Additionally, ratepayers will benefit from the stay-out provision in the

Settlement. 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 the public and of the customers of the Borough of Phoenixville Sewer Fund.

Respectfully Submitted,



Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org
Jennedy E. Santolla
Assistant Consumer Advocate
PA Attorney I.D. # 203098
E-Mail: JSantolla@paoca.org

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: March 16, 2007

R-00061625 ET AL. PENNSYLVANIA PUBLIC UTILITY COMMISSION v.
BOROUGH OF PHOENIXVILLE

(REVISED 1/23/07)

EDMUND J BERGER ESQUIRE
BERGER LAW FIRM PC
2104 MARKET STREET
CAMP HILL PA 17011

BOROUGH MANAGER
BOROUGH OF PHOENIXVILLE
140 CHURCH STREET
PHOENIXVILLE PA 19460

JOHNNIE E SIMMS CHIEF PROSECUTOR
ROBERT V ECKENROD ESQUIRE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
OFFICE OF TRIAL STAFF
400 NORTH STREET
PO BOX 3265
HARRISBURG PA 17105-3265

CHRISTINE MELONI HOOVER
ASSISTANT CONSUMER ADVOCATE
555 WALNUT STREET
5TH FLOOR FORUM PLACE
HARRISBURG PA 17101-1923
C0001

RD
7/0

APR 27 2007

DATE: May 7, 2007

SUBJECT: R-00061625
R-00061625C0001

TO: Office of Administrative Law Judge
Susan Hoffner

FROM: James J. McNulty
Secretary
nvl

DOCUMENT
FOLDER

DOCKETED
MAY 8 - 2007

PENNSYLVANIA PUBLIC UTILITY COMMISSION
OFFICE OF CONSUMER ADVOCATE
V.
BOROUGH OF PHOENIXVILLE

Copies of the Recommended Decision have been served upon all parties.

No exceptions have been received by the Commission. This matter is referred to your office for whatever action you deem necessary.

cc: Office of Special Assistants

P.S. Please note that exceptions or reply exceptions may come in timely with certificate of mailings. A second memo will not be released for these exceptions.