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June 11, 2018

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: The Tax Cuts and Jobs Act of 2017 – Pike County Light & Power Company
Docket No. R-2018-3000942

The Tax Cuts and Jobs Act Signed Into Law on December 22, 2017
Docket No. M-2018-2641242

Dear Secretary Chiavetta:

Attached for electronic filing is the Answer of the Office of Consumer Advocate to Pike County Power & Light Company's Petition for Reconsideration in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

Barrett Sheridan

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Enclosures:
cc: James Mullins, Law Bureau
Erin Laudenslager, Bureau of Technical Utility Services
Certificate of Service
*251326

CERTIFICATE OF SERVICE

The Tax Cuts and Jobs Act of 2017 – Pike County Light & Power Company	:	Docket No.	R-2018-3000942
The Tax Cuts and Jobs Act Signed Into Law on December 22, 2017	:	Docket No.	M-2018-2641242

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer to Pike County Power & Light Company's Petition for Reconsideration, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 11th day of June 2018.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

The Tax Cuts and Jobs Act of 2017 – Pike County Light & Power Company	: :	Docket No. R-2018-3000942
The Tax Cuts and Jobs Act Signed Into Law on December 22, 2017	: :	Docket No. M-2018-2641242

ANSWER OF
THE OFFICE OF CONSUMER ADVOCATE
PIKE COUNTY POWER & LIGHT COMPANY'S
PETITION FOR RECONSIDERATION

I. INTRODUCTION

Pike County Power & Light Company (Pike or Company) has petitioned the Public Utility Commission (PUC or Commission) to reconsider and amend the Commission's May 17, 2018 Orders in the dockets above. Taking into account a proposed amortization of extraordinary storm expense, Pike states that the Company is not earning a return in excess of 5% of its rate base. Pike requests that the Commission reconsider its May 17 Orders and not require Pike to reduce its distribution rates. Petition, ¶ 1.

The Company's Petition suggests that the Commission overlooked certain information such as the Company's April 2018 financials and the Company's pending petition for deferred accounting for storm damage expenses.[1] The OCA does not dispute that Pike experienced storm damage expense in March 2018 and has requested Commission approval for deferred regulatory accounting. See, Petition, Att. 2. However, the OCA does not agree wtih Pike's position that this storm damage expense, which has not yet received Commission approval for deferred regulatory accounting treatment, should be treated as an offset or barrier to the implementation of a temporary negative surcharge to return to Pike electric customers the tax savings calculated by the Commission. The Commission should deny Pike's Petition.

The Commission properly ordered Pike to: 1) implement a temporary surcharge of -0.67% effective June 1, 2018 to adjust prospectively for the tax expense savings calculated in Appendix A to the Commission's May 17, 2018 Temporary Negative Surcharge Order, Docket No. R-2018-3000942 (Pike Surcharge Order); and 2) establish a "deferred regulatory liability" account to record on Pike's "books the tax savings associated with the TCJA for the January 1, 2018 through June 30, 2018 time period." See, Pike Surcharge Order at 3-7, App. A. The OCA supports the Commission's determination that Pike electric service ratepayers should benefit from the implementation of a temporary negative surcharge and the future review and possible

[1] The Duick v. Pennsylvania Gas and Water Co., 56 Pa. PUC 553 (1982), standards for grant of a petition for reconsideration are as follows:

> A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was stated that "[p]arties ... , cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them .... " What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

56 PaPUC at 559 (quoting Pennsylvania R.R. Co. v. Pa. PUC, 118 Pa. Super. 380, 179 A. 850 (1935) (emphasis added).

ratemaking recognition of the deferred regulatory liability covering the first six months of tax savings arising from the Tax Cuts and Federal Jobs Act (TCJA).[2] The ratemaking recognition, if any, of deferred regulatory liabilities (such as the six months of tax expense savings) and deferred regulatory assets (such as extraordinary, unusual, and non-recurring storm damage expense) is best addressed in the context of a future general base rate case.

II. ARGUMENT

A. Background

The Tax Cuts and Jobs Act, effective January 1, 2018, establishes, among other things, a reduced federal corporate income tax rate of 21 percent.[3] As stated in the OCA's Comments filed on March 9, 2018, utilities recognized tax expense savings while still collecting tax expense from ratepayers under the higher tax rate. Accordingly, utility rates were unjust and unreasonable. The Tax Cuts and Jobs Act: Tax Reform Bill Signed Into Law on December 22, 2017, M-2018-2641242, OCA Comments at 4-5 (Mar. 9, 2018) (OCA Comments).

On February 12, 2018, the Commission issued a Secretarial Letter, docketed at M-2018-2641242, to determine the effects of the TCJA on the tax liabilities of the Commission-regulated public utilities for 2018 and future years and the feasibility of reflecting such impacts in the rates charged to Pennsylvania utility ratepayers. The Tax Cuts and Jobs Act: Tax Reform Bill Signed Into Law on December 22, 2017, M-2018-

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[2] Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017) (TCJA or the Act).

[3] More specifically, the previous tax scheme had graduated tax brackets that applied a larger percentage to higher levels of income, with the highest rate of 35 percent. The TCJA replaces this scheme with a flat rate of 21 percent regardless of the amount of taxable income.

2641242, Secretarial Letter (Feb. 12, 2018) (Secretarial Letter). The Secretarial Letter directed major Commission-regulated public utilities, which include Pike, to provide verified responses to the data requests in Attachment B to the Secretarial Letter. Secretarial Letter, Att. B. It also provided an opportunity for interested parties to file comments.

On March 15, 2018, the Commission entered a Temporary Rates Order establishing certain utilities' current rates, including Pike's electric service rates, as temporary, pursuant to Section 1310(d) of the Public Utility Code, during the pendency of this proceeding. 66 Pa.C.S. § 1310(d). The Tax Cuts and Jobs Act: Tax Reform Bill Signed Into Law on December 22, 2017, M-2018-2641242, Temporary Rates Order (Mar. 15, 2018) (March 15 Order). Pike filed a Tariff Supplement effective April 4, 2018 establishing its then current rates as temporary rates, pursuant to Section 1310(d) through September 15, 2018. See, Pike County Power & Light Company Tariff Supp. Nos. 72 and 74, Docket No. R-2018-30000942.

On March 20, 2018, Pike filed responses to the Secretarial Letter data requests. Pike calculated the effect of the TCJA on the Company's federal and state income tax expense based upon December 31, 2017 financial information.

On April 20, 2018, Pike petitioned the Commission "for permission to defer for accounting and financial reporting purposes extraordinary losses that were caused by Storm Riley…." Petition, Att. 2, Pike Deferred Accounting Petition, Docket No. P-2018-30001395. Pike's Deferred Accounting Petition proposes "to amortize such losses commencing on the date when rates are changed pursuant to the Commission's final order in PCL&P's next general rate proceeding …." Deferred Account Petition, ¶¶ 1, 4.

On May 17, 2018, the Commission issued an Order directing Pike to file a tariff or tariff supplement by June 15, 2018, establishing a surcharge of -0.67% effective on bills rendered after July 1, 2018. Pike Surcharge Order at 3-7. The -0.67% negative surcharge is based upon information provided by Pike in its March 20 response to the Secretarial Letter data requests. On May 17, 2018, the Commission also issued an Order in the TJCA Docket No. M-2012-2641242 which identified those utilities, including Pike, with rates that are unjust and unreasonable due to the decrease in tax expense under the TCJA and the Commission's chosen approach to provide utility consumers with the benefit of the tax expense reductions. (May 17 TJCA Order)

B. The Commission Should Evaluate Pike's Earned Rate of Return Claim

The first question presented by Pike's Petition is the question of its earned rate of return. See, Petition, ¶¶ 4,5. Pike states that its earned return is below 5% and so the Commission should not require Pike to reduce its electric distribution rates. Id., ¶ 1. The OCA submits that the information set forth in Pike's "Income Statement" for the twelve months ending April 30, 2018 should be the subject of careful review for accuracy and reliability. The Commission based its March 15 Temporary Rates Order upon "examination of Quarterly Financial and Annual Financial Reports." Temporary Rates Order at 4. The Commission ordered Pike and other utilities to implement temporary rates based on a finding that "current rates are producing a rate of return on their rate base of not less than 5%." Id.; see also May 17 TCJA Order at 15 (The PUC excluded "any public utilities that are not earning in excess of 5% on their rate base" from the directive to flow back tax savings through temporary rate reductions).

According to Pike, the Company is earning an overall return of 3.93% based upon "Actual" income, expenses, taxes, depreciation and rate base as of April 30, 2018. Petition, Att. 1. The OCA supports Commission Staff's effort to evaluate the Company's Income Statement and rate of return calculation, through the issuance of data requests. Any updated measure of Pike's overall earned rate of return, as based on actual April 2018 financial data, should be calculated based upon the same elements as the Commission's March 15 Temporary Rates Order.

C. The Commission Should Not Recognize Pike's Storm Damage Expense As An Offset

Pike states that the Commission should amend its Pike Surcharge Order and May 17 TCJA Order because Pike is not and will not earn a 5% rate of return due to the storm damage expense, assuming a five-year amortization. Petition, ¶ 7, 9, Att. 1. Pike asks the Commission to relieve Pike of the obligation to decrease its distribution rates to flow through tax savings. Id., ¶ 9. The OCA does not agree that the Commission improperly overlooked Pike's position.

First, Pike's answer to the Secretarial Letter data requests suggested that tax savings could be treated as an offset to "customers deferred balances such as deferred storm costs as well as system reliability costs." Pike March 20 Answer to D.R. 2. The Commission properly rejected such offset proposals. See, May 17 TCJA Order at 7-8. Second, the Commission has not yet ruled upon Pike's Deferral Accounting Petition. Third, if deferred accounting is granted for this expense, the OCA submits that the question of whether and how to accord ratemaking recognition for some or all of the deferred storm damage expense should be addressed in a future base rate proceeding.

The OCA submits that in the Company's future base rate proceeding, the parties will have the opportunity to address whether and how to accord any deferred liability account or deferred liability asset rate recognition. At that future date, the parties to the base rate case could review the rate recognition of the deferred liability account for the January to June 30, 2018 tax savings, per the Pike Surcharge Order, and any deferred asset account such as for extraordinary storm damage expense.

The Commission should not amend the Pike Surcharge Order and May 17 TCJA Order so as to relieve Pike of the obligation to reduce distribution rates starting on July 1, 2018 based upon consideration of the Company's March 2018 storm damage expense.

III. CONCLUSION

WHEREFORE, the Office of Consumer Advocate respectfully requests that Commission deny Pike Power & Light Company's request for reconsideration and amendment of the Commission's May 17, 2018 Tax Cuts and Jobs Act Order, as it applies to Pike and the May 17, 2017 Pike Surcharge Order.

Respectfully Submitted,

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Dated: June 11, 2018

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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VERIFICATION

I, ASHLEY E. EVERETTE, hereby state that the facts set forth in the Office of Consumer Advocate's Answer are true and correct (or are true and correct to the best of my knowledge, information, and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Signed: Ashley E. Everette
ASHLEY E. EVERETTE

June 11, 2018

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