

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2019-3009559
Office of Consumer Advocate	:	C-2019-3010191
Office of Small Business Advocate	:	C-2019-3009809
Michael Kelly	:	C-2019-3011775
Mark and Barbara Stamer	:	C-2019-3012551
	:	
v.	:	
	:	
Eaton Sewer & Water Company – Wastewater Division	:	
	:	
Pennsylvania Public Utility Commission	:	R-2019-3009567
Office of Consumer Advocate	:	C-2019-3010186
Office of Small Business Advocate	:	C-2019-3009811
Michael Kelly	:	C-2019-3011776
Mark and Barbara Stamer	:	C-2019-3012546
	:	
v.	:	
	:	
Eaton Sewer & Water Company – Water Division	:	

**RECOMMENDED DECISION**

Before  
Andrew M. Calvelli  
Administrative Law Judge

**INTRODUCTION**

This Decision recommends that the Joint Petition for Settlement (Joint Petition or Settlement) be approved in its entirety without modification because it is in the public interest and is supported by substantial evidence. Eaton Sewer and Water Company, Inc. – Wastewater Division (Eaton Sewer) and Eaton Sewer and Water Company, Inc. – Water Division (Eaton Water) (collectively Eaton or the Company and individually, Eaton Sewer and Eaton Water), the

Pennsylvania Public Utility Commission's (PUC or Commission) Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), and the Office of Small Business Advocate (OSBA) (hereinafter collectively referred to as the Joint Petitioners), submitted a Joint Petition for Settlement to the Commission on October 1, 2019. In lieu of the originally requested increase in rates for Eaton Sewer of \$73,973 (45% overall increase) and Eaton Water of \$61,573 (35% overall increase), the Settlement calls for overall rate increases of \$42,006 for Eaton Sewer for wastewater operating revenues (approximately a 25% overall increase), along with an overall rate increase of \$10,028 for Eaton Water for water operating revenues (approximately a 6% overall increase). The Settlement also addresses other issues in this proceeding, including ratemaking issues and reliability issues concerning the water supplied by Eaton.

This Decision finds that the Settlement complies with the relevant sections of the Public Utility Code regarding rate filings and rate increases and is consistent with Commission Regulations promoting settlements. The Commission's deadline for acting on the proposed Settlement and rate increase requests is May 1, 2020.

#### HISTORY OF THE PROCEEDING

Eaton is a public utility that provides water and wastewater service to approximately 131 water and wastewater customers in portions of Eaton Township, Wyoming County, Pennsylvania.

On April 29, 2019, Eaton Sewer filed at Docket No. R-2019-3009559 Supplement No. 2 to Wastewater – PA P.U.C. No. 3 ("Wastewater Supplement No. 2") proposing an annual increase in rates of \$73,973 (45%) to be effective August 1, 2019.

On April 29, 2019, Eaton Water filed at Docket No. R-2019-3009567 Supplement No. 2 to Water – PA P.U.C. No. 3 ("Water Supplement No. 2"), proposing an annual increase in rates of \$61,573 (35%) to be effective August 1, 2019.

On May 10, 2019, the OSBA filed Formal Complaints against Eaton Sewer and Eaton Water at Docket Nos. C-2019-3009809 and C-2019-3009811, respectively. On May 29, 2019, the OCA filed a Formal Complaint against Eaton Sewer at Docket No. C-2019-3010191 and Eaton Water at C-2019-3010186. On June 7, 2019, I&E filed a Notice of Appearance in Docket No. R-2019-3009559 and became active in both the water and wastewater rate proceedings.

By Order entered on May 23, 2019, the Commission suspended Sewer Supplement No. 2 and Water Supplement No. 2 by operation of law until March 1, 2020, and instituted an investigation to determine the lawfulness, justness and reasonableness of Eaton's existing and proposed rates, rules, and regulations contained in the Sewer and Water supplements. In addition, the Order assigned these proceedings to the Office of Administrative Law Judge for alternative dispute resolution, if possible, and for the prompt scheduling of hearings as may be necessary culminating in the issuance of a recommended decision.

On May 31, 2019, Eaton filed Tariff Wastewater Supplement No. 3 and Tariff Water Supplement No. 3 voluntarily suspending its Wastewater Supplement No. 2 and Water Supplement No. 2 for an additional 60 days, from March 1, 2020, to May 1, 2020, to facilitate mediation and possible settlement.

On June 24, 2019, a Prehearing Conference Notice was sent to the Parties, indicating that a Prehearing Conference would be held in Harrisburg on July 11, 2019 and that I had been assigned as the Presiding Officer. The Prehearing Conference was held as scheduled on July 11, 2019. During the Prehearing Conference, OSBA made an on-the-record Motion to Consolidate the rate proceedings at Docket Nos. R-2019-3009559 and R-2019-3009567. There was no opposition to the Motion, and I granted that Motion. On that same day, PUC Mediator Lehman presided over a mediation conference among representatives from the Company, OCA, OSBA, and I&E.

On or around July 26, 2019, complaints against both Eaton Sewer and Eaton Water were filed by Michael Kelly at Docket Nos. C-2019-3011775 and C-2019-3011776,

respectively. On or around August 29, 2019, complaints against both Eaton Sewer and Eaton Water were filed by Mark and Barbara Stamer at Docket Nos. C-2019-3012551 and C-2019-3012546, respectively. Via letters filed with the Commission on August 2, 2019 and September 6, 2019, respectively, Eaton indicated that in accordance with the Commission Regulation at 52 Pa. Code § 5.61(d), it would not be filing answers to those Formal Complaints.

I note that various other individuals filed Letters in Opposition to Eaton's proposed rate increases. However, those individuals did not elect to file Formal Complaints in order to become active litigants in this proceeding. Accordingly, although their filed comments were reviewed in rendering this Recommended Decision, those comments do not constitute record evidence and I will therefore refrain from relying upon those comments in rendering this Decision.

Pursuant to the Commission's Regulation at Section 5.81(a), "The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay." 52 Pa. Code § 5.81(a). As the eight Formal Complaints mentioned above all relate to the consolidated rate proceeding, in that they all challenge the justness, reasonableness and fairness of the proposed rate increases, I conclude that those Complaints should be consolidated with the rate proceeding in order to allow the Commission to dispose of all of the ten related cases via this Recommended Decision. Therefore, I am consolidating all of the related cases by way of this Recommended Decision as part of the ordering paragraphs below.

On August 1, 2019, the parties participated in a second in-person mediation conference. On August 21, 2019, and September 4, 2019, the parties participated in mediation teleconferences.

As a result of the mediation conferences, the Joint Petitioners agreed to the Settlement as set forth herein. While the Joint Petitioners acknowledge that they have not sought, nor would they be able, to agree upon the specific rate case adjustments that support their

respective conclusions, they are in full agreement that this Settlement is in the best interest of the Company and its customers and, therefore, is in the public interest.

The Joint Petition for Settlement was filed with the Commission on October 1, 2019. Joining in the Settlement were Eaton, I&E, OCA and OSBA. OCA mailed Notice of the Settlement to the Formal Complainants Michael Kelly and Mark and Barbara Stamer on October 1, 2019. In the Notice, OCA indicated that the Formal Complainants could either join in the Settlement or file their opposition to the Settlement. The Notice directed the Formal Complainants to file any opposition to the Settlement no later than October 15, 2019 (postmark date), by sending a letter indicating their opposition to the Presiding Officer. As of the date of this Recommended Decision, no letters of opposition to the Settlement have been received from the Formal Complainants.

No evidentiary hearings were held in this proceeding, and no pre-served testimony was exchanged or filed by the Parties. As a result, each of the Parties to the Settlement have stipulated to certain facts contained in the Settlement, in order to provide the Commission with the factual basis necessary for approving the Settlement. By way of this Recommended Decision, I am recommending that the Commission approve the jointly stipulated facts contained in the Settlement.

The record in this consolidated proceeding closed on October 15, 2019, the last date to file letters of opposition to the Settlement as directed in the OCA Notice of Settlement dated October 1, 2019 and mailed to the Formal Complainants Michael Kelly and Mark and Barbara Stamer. This matter is ready for decision. For the reasons discussed below, I am recommending that the Commission approve the Settlement in its entirety without modification.

#### FINDINGS OF FACT

The Parties reached a full settlement in this proceeding prior to the holding of any evidentiary hearings. As a result, each of the Parties to the Settlement have stipulated to certain facts contained in the Settlement, in order to provide the Commission with the factual basis

necessary for approving the Settlement. The relevant stipulated facts, along with facts of record as reflected in the consolidated case docket entries, are set forth below:

1. Eaton is a public utility that provides water and wastewater service to approximately 131 water and wastewater customers in portions of Eaton Township, Wyoming County, Pennsylvania.

2. On April 29, 2019, Eaton Sewer filed at Docket No. R-2019-3009559 Supplement No. 2 to Wastewater – PA P.U.C. No. 3 ("Wastewater Supplement No. 2") proposing an annual increase in rates of \$73,973 (45%) to be effective August 1, 2019.

3. On April 29, 2019, Eaton Water filed at Docket No. R-2019-3009567 Supplement No. 2 to Water – PA P.U.C. No. 3 ("Water Supplement No. 2"), proposing an annual increase in rates of \$61,573 (35%) to be effective August 1, 2019.

4. On May 10, 2019, the OSBA filed Formal Complaints against Eaton Sewer and Eaton Water at Docket Nos. C-2019-3009809 and C-2019-3009811, respectively.

5. On May 29, 2019, the OCA filed a Formal Complaint against Eaton Sewer at Docket No. C-2019-3010191 and Eaton Water at C-2019-3010186.

6. On June 7, 2019, I&E filed a Notice of Appearance in Docket No. R-2019-3009559 and became active in both the water and wastewater rate proceedings.

7. By Order entered on May 23, 2019, the Commission suspended Sewer Supplement No. 2 and Water Supplement No. 2 by operation of law until March 1, 2020, and instituted an investigation to determine the lawfulness, justness and reasonableness of Eaton's existing and proposed rates, rules, and regulations contained in the Sewer and Water supplements.

8. On May 31, 2019, Eaton filed Tariff Wastewater Supplement No. 3 and Tariff Water Supplement No. 3 voluntarily suspending its Wastewater Supplement No. 2 and Water Supplement No. 2 for an additional 60 days, from March 1, 2020, to May 1, 2020, to facilitate mediation and possible settlement.

9. On or around July 26, 2019, complaints against both Eaton Sewer and Eaton Water were filed by Michael Kelly at Docket Nos. C-2019-3011775 and C-2019-3011776. On or around August 29, 2019, complaints against both Eaton Sewer and Eaton Water were filed by Mark and Barbara Stamer at Docket Nos. C-2019-3012551 and C-2019-3012546.

10. Via letters filed with the Commission on August 2, 2019 and September 6, 2019, respectively, Eaton indicated that in accordance with the Commission Regulation at 52 Pa. Code § 5.61(d), it would not be filing answers to the Formal Complaints filed by Michael Kelly and Mark and Barbara Stamer.

11. Immediately following a Prehearing Conference on July 11, 2019, the parties participated in an initial in-person mediation conference.

12. On August 1, 2019, the parties participated in a second in-person mediation conference.

13. On August 21, 2019, and September 4, 2019, the parties participated in mediation teleconferences.

14. As a result of the mediation conferences, the Joint Petitioners were able to agree to the Settlement as set forth herein, and while the Joint Petitioners acknowledge that they have not sought, nor would they be able, to agree upon the specific rate case adjustments that support their respective conclusions, they are in full agreement that this Settlement is in the best interest of the Company and its customers and, therefore, is in the public interest.

15. The Joint Petition for Settlement was filed with the Commission on October 1, 2019.
16. Joining in the Settlement were Eaton, I&E, OCA and OSBA.
17. OCA mailed Notice of the Settlement to the Formal Complainants Michael Kelly and Mark and Barbara Stamer on October 1, 2019, indicating that the Formal Complainants could either join in the Settlement or file their opposition to the Settlement, and further directing the Formal Complainants to file any opposition to the Settlement no later than October 15, 2019 (postmark date), by sending a letter indicating their opposition to the Presiding Officer.
18. No letters of opposition to the Settlement have been received from the Formal Complainants.
19. The Wastewater Settlement Rates are designed to produce \$42,006 in additional total annual operating revenue based on present rate annual revenues of \$164,472.
20. Settlement Rates for Eaton Sewer are designed to result in total annual revenue of \$206,478 from customers, which is an increase in annual revenues by approximately 25.5%.
21. The Water Settlement Rates are designed to produce \$10,028 in additional total annual operating revenue based on present rate annual revenues of \$174,499.
22. Settlement Rates for Eaton Water are designed to result in total annual revenue of \$184,526 from customers, which is an increase in annual revenues by approximately 5.7%.
23. The Settlement is not premised upon any inclusion in rate base of a "utility plant acquisition adjustment" related to the acquisition of Eaton from Eaton Hills, Inc.

24. The Parties are in agreement to the wastewater and water rates contained in Appendices A, B, C and D attached to the Settlement.

25. Prior to its next base rate filing, Eaton will examine the viability of implementing separate rates for small and large commercial customers, and will provide its findings with respect to the viability of this proposal as part of its next base rate filing.

26. Eaton agrees to update the 2007 chlorination report agreed to by the parties as part of the settlement achieved in Eaton's last water base rate proceeding at Docket No. R-00061646, and will provide the new report to the Commission's Bureau of Technical Utility Services (TUS) and the signatory parties within ninety (90) days following the date of a Commission order approving the Settlement.

27. In preparing the new chlorination report, Eaton will review its chlorination practices to ensure an optimal level of chlorine from a safety perspective, while considering the impact on the water provided at the tap.

28. Eaton agrees to investigate complainants Mark and Barbara Stamer's claim that their water has an unpleasant chlorine taste.

29. Within ninety (90) days following the entry date of an Order approving this Settlement, Eaton will report to TUS, the signatory parties and the complainants regarding the chlorine test results and any steps taken by the Company to address this claim.

30. The Settlement provides for an increase in annual operating revenues of \$42,006, which is approximately 56.7% of Eaton's overall requested rate increase of \$73,973 for wastewater operating revenues.

31. The Settlement provides for an increase in annual operating revenues of \$10,028, which is approximately 16.2% of Eaton's overall requested rate increase of \$61,573 for water operating revenues.

## DISCUSSION

### 1) Legal Standard

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 the property dedicated to public service. Pennsylvania Gas and Water Co. v. Pa. 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) (Bluefield) 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 reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-3.

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 the 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. Pa. 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. Pa. Pub. Util. Comm'n, 570 A.2d 149, 153 (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 case, the parties submitted a settlement of all issues. 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 administrative 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. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters. Pa. Pub. Util. Comm’n., v. City of Lancaster – Bureau of Water, Docket Nos. R-2010-2179103 (Opinion and Order entered July 14, 2011) (Lancaster). Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. Id.; *citing*, Warner v. GTE North, Inc., Docket No. C-00902815 (Opinion and Order entered April 1, 1996) (Warner); Pa. Pub. Util. Comm’n. v. CS Water and Sewer Associates, 74 Pa. PUC 767 (1991).

Any decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm’n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 194 Pa. Super. 278, 166 A.2d 96 (1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

## 2) Terms of the Settlement

In the Settlement, the Parties agreed to resolve all outstanding issues and to seek Commission approval for the matters settled. The relevant terms of the Settlement are as follows - paragraph numbers and headings are listed as they appear in the original Settlement which was filed with the Commission:

## II. TERMS AND CONDITIONS

### 11. Revenue Requirement

a. Upon the Commission's approval of this Joint Petition, Eaton Sewer will be permitted to charge the rates for wastewater service to provide for the revenues set forth in the Statement of Revenues in Appendix A (hereinafter, the "Wastewater Settlement Rates").<sup>1</sup> The Wastewater Settlement Rates are designed to produce \$42,006 in additional total annual operating revenue based on present rate annual revenues of \$164,472. Settlement Rates for Eaton Sewer are designed to result in total annual revenue of \$206,478 from customers, which is an increase in annual revenues by approximately 25.5%. The Tariff Supplement for the Wastewater Settlement Rates in Appendix C shall become effective upon one day's notice of the entry of a Commission order approving the Joint Petition, but no earlier than January 1, 2020.

b. Upon the Commission's approval of this Joint Petition, Eaton Water will be permitted to charge the rates for water service to provide for the revenues set forth in the Statement of Revenues in Appendix B (hereinafter, the "Water Settlement Rates").<sup>2</sup> The Water Settlement Rates are designed to produce \$10,028 in additional total annual operating revenue based on present rate annual revenues of \$174,499. Settlement Rates for Eaton Water are designed to result in total annual revenue of \$184,526 from customers, which is an increase in annual revenues by approximately 5.7%. The Tariff Supplement for the Water Settlement Rates in Appendix D shall become effective upon one day's notice of the entry of a Commission order approving the Joint Petition, but no earlier than January 1, 2020.

c. This Settlement is not premised upon any inclusion in rate base of a "utility plant acquisition adjustment" related to the acquisition of Eaton from Eaton Hills, Inc.

d. Within thirty (30) days after completion of the capital projects required for compliance with the Company's approved Uninterrupted System Service Plan, Eaton will provide the Bureau of Technical Utility Services ("TUS") and the signatory parties to

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<sup>1</sup> Pursuant to this Joint Petition, Eaton is canceling Tariff Supplement – Wastewater Pa. PUC Nos. 2 and 3. Eaton is filing Tariff- Water Pa. PUC No. 4, which is attached as Appendix C.

<sup>2</sup> Pursuant to this Joint Petition, Eaton is canceling Tariff Supplement – Water Pa. PUC Nos. 2 and 3. Eaton is filing Tariff- Water Pa. PUC No. 4, which is attached as Appendix D.

this Settlement with copies of final invoices and proof of payment for the completed projects.

12. Petitioners respectfully request that the Commission approve this Settlement expeditiously. Upon the entry of a Commission Order approving this Joint Petition, the Company will be permitted to file wastewater and water tariff supplements in the form set forth in Appendices C and D to become effective upon one day's notice, but no earlier than January 1, 2020.

13. Rate Design/Revenue Allocation

a. The parties agree to the wastewater rates and resulting revenues set forth in Appendix A (Statement of Revenues).

b. The parties agree to the water rates and resulting revenues set forth in Appendix B (Statement of Revenues).

c. The parties agree to the wastewater rates set forth in Appendix C (Wastewater Tariff).

d. The parties agree to the water rates set forth in Appendix D (Water Tariff).

e. Eaton agrees that, prior to its next base rate filing, the Company will examine the viability of implementing separate rates for small and large commercial customers. Eaton will provide its findings with respect to the viability of this proposal as part of its next base rate filing.

14. The Company agrees to update the 2007 chlorination report agreed to by the parties as part of the settlement achieved in Eaton's last water base rate proceeding at Docket No. R-00061646. The Company will provide the new report to TUS and the signatory parties within ninety (90) days following the date of a Commission order approving this proposed Settlement. In preparing the new chlorination report, the Company will review its chlorination practices to ensure an optimal level of chlorine from a safety perspective, while considering the impact on the water provided at the tap. The report will:

a. Describe the Company's review and analysis of its current chlorination practices;

- b. Explain whether the Company is using the same chlorination process discussed in the 2007 report, and, if the process has changed, identify the changes; and
- c. The new report will specify the designated points in the distribution system where chlorination levels are tested, in addition to providing the monthly results of those tests.

15. The Company agrees to investigate complainants Mark and Barbara Stamer's claim that their water has an unpleasant chlorine taste. As part of that investigation, Eaton agrees to the following:

- a. As soon as reasonably practicable, Eaton will contact the complainants to make arrangements to test chlorine levels at an outside tap at the Stamer's home.
- b. Eaton will test the chlorine levels at this outside tap at least three (3) times over a period of at least three (3) weeks.
- c. Within ninety (90) days following the entry date of an Order approving this Settlement, Eaton will report to TUS, the signatory parties and the complainants regarding the chlorine test results and any steps taken by the Company to address this claim.

16. The Joint Petitioners recognize that this Joint Petition does not bind formal complainants that have not joined herein. The Joint Petition and the attached Appendices, including any Statements in Support, are being served upon all formal complainants. The OCA will also send a letter with the Joint Petition to the two formal customer complainants in this proceeding. The letter notification will specifically provide that the formal customer complainants may file comments to this Joint Petition within fourteen (14) days of service of the Joint Petition. Nothing herein is intended to limit in any way any position that any Joint Petitioner may have or take concerning any comment to the Joint Petition filed by a customer complainant.

17. By their agreement to this Settlement, the Joint Petitioners do not waive and expressly reserve their rights in any subsequent case to litigate issues pertaining to the issues mentioned above.

### **III. PUBLIC INTEREST CONSIDERATIONS**

18. Eaton, I&E, OSBA, and OCA have each prepared and attached to this Joint Petition, Statements in Support identified as

Appendices E, F, G, and H, setting forth the bases upon which they believe the Settlement is fair, just, reasonable, non-discriminatory, lawful, and in the public interest.

a. The Settlement provides for an increase in annual operating revenues of \$42,006, which is approximately 56.7% of Eaton's overall requested rate increase of \$73,973 for wastewater operating revenues.

b. The Settlement provides for an increase in annual operating revenues of \$10,028, which is approximately 16.2% of Eaton's overall requested rate increase of \$61,573 for water operating revenues.

c. Acceptance of the Settlement will avoid the necessity of further administrative and possible appellate proceedings at substantial cost to the Joint Petitioners and the Company's customers.

#### **IV. ADDITIONAL TERMS AND CONDITIONS**

19. This Settlement is proposed by the Joint Petitioners to settle the instant cases and is made without any admission against, or prejudice to, any position that any Joint Petitioner might adopt during subsequent litigation, including further litigation in this case. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify the terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within three (3) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement, or the Company or any other Joint Petitioner elects to withdraw as provided above, the Joint Petitioners reserve their respective rights to fully litigate these cases including, but not limited to, presentation of witnesses, cross-examination, and legal argument through submission of Brief, Reply Brief, Exceptions and Reply Exceptions. If the ALJ, in his Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed, the Joint Petitioners agree to waive the filing of Exceptions. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Settlement, or any additional matters proposed by the ALJ in his Recommended

Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

3) Public Interest - Analysis of the Settlement

As noted above, it is the policy of the Commission to promote settlements. 52 Pa. Code § 5.231(a). The benchmark for determining whether a settlement should be approved is whether the proposed terms and conditions are in the public interest. *See, Lancaster, Warner, supra*. In the Settlement, the parties noted that the Settlement is in the public interest because it was achieved after a number of mediation sessions in which the Parties were able to agree on all relevant settlement terms. The Parties also noted that the Settlement is in the public interest because approving the Settlement would avoid the time, expense and uncertainty for the parties and the Commission that would occur if the case was fully litigated. The Parties further stated that the Settlement terms as outlined represent reasonably negotiated compromises on the issues addressed therein and that the Settlement is consistent with Commission rules, regulations and procedures encouraging and promoting negotiated settlements. As discussed further below, the parties also attached to the Settlement separate Statements in Support of the Settlement, articulating their individual arguments and reasons why approving the Settlement without modification is appropriate and in the public interest.

a) Eaton's Position

In its Statement in Support of Settlement, Eaton notes that although it has not sought a rate increase since 2007 and believes that the Commission would find it is entitled to receive all or a substantial portion of its requested sewer increase of \$73,973 and water increase of \$61,573 if these proceedings were fully litigated, Eaton has agreed to accept a wastewater increase of \$42,006 and a water increase of only \$10,028 in the interest of avoiding the expense and uncertainty of continued litigation. Eaton Statement at pp. 3, 4. Eaton's customers and all parties involved thus benefit from this Settlement. *Id.* at p. 4.

Eaton also notes that the Settlement permits Eaton to file, upon Commission approval, wastewater and water tariff supplements to become effective on one day's notice, but no earlier than January 1, 2020. Eaton Statement at p. 4.

The Joint Petition also provides that, prior to its next base rate filing, Eaton will examine the viability of implementing separate rates for small and large commercial customers and will provide its findings with respect to the viability of this proposal as part of its next base rate filing. Eaton Statement at p. 4.

Eaton further notes that the Settlement provides that the Company will update the 2007 chlorination report of its most recent rate case at Docket No. R-00061646. Id. In preparing the new report, the Company will review its chlorination practices to ensure an optimal level of chlorine from a safety perspective, while considering the impact on the water provided at the tap. Id. Eaton will provide the new report to the TUS and the signatory parties within ninety (90) days following the entry date of a Commission order approving the Settlement. Id.

Finally, the Settlement addresses the customer complainants' concerns by providing that Eaton will investigate the claim by complainants Mark and Barbara Stamer that their water has an unpleasant chlorine taste. Id. at pp. 4, 5.

Accordingly, Eaton submits that the Joint Petition is in the public interest and adheres to the Commission's policies promoting negotiated settlements, since the Joint Petition was achieved after numerous and extensive settlement discussions which has allowed the parties, and the Commission, to avoid expending the substantial resources that would have been required to fully litigate these proceedings to reach a just, reasonable, and non-discriminatory result. Id. at p. 5. Eaton therefore submits that the Joint Petitioners have thus reached an amicable resolution to these disputes as embodied in the Joint Petition, and that approval of the Joint Petition for Settlement will permit the Commission and Joint Petitioners to avoid incurring the additional time, expense, and uncertainty of further litigation. Id.

b) I&E's Position

In its Statement in Support of Settlement, I&E notes that it is the policy of the Commission to encourage settlements (citing 52 Pa. Code § 5.231), and that the policy highlights the importance of settlement in Commission proceedings. I&E Statement at p. 3. I&E also notes that the Commission has recognized that a settlement “reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest.”<sup>3</sup> Id. I&E believes this Settlement balances the interests of the Company and its existing customers in a fair and equitable manner that best serves the public interest, as a comparison of the original filings submitted by the Company and the negotiated agreement demonstrates that compromises are evident throughout the Joint Petition. Id. Accordingly, I&E maintains that the Settlement should be approved without modification. Id. at p. 4.

I&E states that it fully supports the negotiated \$42,006 increase to Eaton's sewer rates in lieu of Eaton's requested \$73,973 increase and further supports the agreed upon \$10,028 increase to water rates in lieu of Eaton's \$61,573 request. Id. I&E analyzed the ratemaking claims contained in the Company's base rate filings including operating and maintenance expenses, rate base, taxes, cash working capital, capital structure, and the cost of common equity and debt. Id. I&E did not prepare formal testimony given that these cases went through the Commission's mediation process; however, I&E did perform a full rate analysis and presented its issues and adjustments to the Company and other parties during the course of the mediation sessions. Id. Accordingly, I&E submits that the overall revenue levels reflect I&E's ratemaking analysis and represents a full compromise of all revenue-related issues raised by the parties. Id.

I&E further notes that, due to the “black box” nature of the Settlement, there is no agreement upon individual issues; the parties have instead agreed to an overall increase to base rates that is less than what was requested by the Companies. Id. I&E states that black box settlements benefit ratepayers because they allow for the resolution of a contested proceeding at a level of increase that is below the amount requested by the regulated entity and in a manner that avoids the significant expenditure of time and resources related to further litigation. Id. I&E

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<sup>3</sup> *Pa. Pub. Util. Comm'n v. C S Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991).

also states that black box settlements are commonly used in proceedings before this Commission. Id. at pp. 4, 5. I&E also states that line-by-line identification and resolution of every issue in this proceeding is not necessary to find that the Settlement is in the public interest, and further states that such a line-by-line resolution of issues would not even be possible via settlement. Id. at p. 4. For these reasons, I&E supports the requested revenue increases as set forth in the Settlement. I&E Statement at p. 5.

In addition to revenue-related issues, I&E notes that the Settlement specifically does not include the acquisition adjustment related to the acquisition of Eaton Hills, Inc. is not included in the rate base. Id. Although the Company's filing originally included this in rate base, I&E notes that the acquisition occurred many years ago and is fully depreciated. Id. Therefore, this Settlement term memorializes the appropriate ratemaking treatment of this acquisition adjustment. Id.

I&E also supports Eaton's agreement that it will examine implementing separate rates for large and small commercial customers and present the viability of that proposal in its next base rate filing. Id. at p. 6. I&E believes that exploring this possibility will help the Company and other parties ensure that all customer classes are paying their appropriate cost to serve on a going forward basis. Id.

With regard to chlorine-related issues, I&E notes that the Settlement reflects that the Company will update its 2007 chlorination report that was agreed upon in its 2007 base rate proceeding and that it will provide the report to the signatory parties and to the Commission's Bureau of Technical Utility Service within 90 days of the date of Commission Order. Id. I&E states that this term is in the public interest to ensure that the Company is providing safe and reliable service pursuant to its statutory obligation under Section 1501 of the Public Utility Code. Id. Additionally, I&E notes that Paragraph 15 of the Settlement provides that it will investigate the complaints of customers Mark and Barbara Stamer that their water has an unpleasant chlorine taste. Id. at pp. 6, 7. I&E notes that investigating this potential issue at the Stamer residence is responsive to the issues raised by Eaton's customers and is in the public interest. Id.

I&E represents that all issues have been satisfactorily resolved through discovery and discussions with the Company or are incorporated or considered in the resolution proposed in the Settlement. Id. at p. 7. I&E further submits that the acceptance of this Settlement negates the need for testimony, evidentiary hearings, which would compel the extensive devotion of time and expense for the preparation, presentation, and cross-examination of multiple witnesses, the preparation of Main and Reply Briefs, the preparation of Exceptions and Replies, and the potential of filed appeals, all yielding substantial savings for all parties and ultimately all customers. I&E Statement at p. 7. I&E also notes that the Settlement provides regulatory certainty with respect to the disposition of issues and final resolution of this case which all the parties agree benefits their discrete interests. Id.

c) OCA's Position

In its Statement in Support of Settlement, OCA notes that the proposed Settlement provides for an overall increase in annual water revenues of \$10,000 and annual wastewater revenues of \$42,000. OCA Statement at p. 3. This compromise represents a 61.6% reduction from the Company's combined original rate increase request. Id. OCA notes that under the proposed Settlement, a bill for a typical residential water customer using 5,000 gallons of water per month would increase from \$37.30 to \$40.15, or by 7.6%, rather than to \$50.35 (35%) as originally proposed by the Company. Id. Additionally, a bill for a typical wastewater customer using 5,000 gallons of water per month would increase from \$51.65 to \$66.75, or by 29.2%, rather than to \$74.90 (45%), as originally requested by Eaton. Id.

Based on the OCA's analysis of the Company's filing, and discovery responses, the rate increase under the proposed Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of the case. Id. This increase is appropriate when accompanied by other important conditions contained in the Settlement and yields a result that is just and reasonable. Id.

OCA also notes that concerns were raised regarding the level of chlorine in the water. Id. Pursuant to the Settlement, the Company will test chlorine levels at the home of

Formal Complainants Mark and Barbara Stamer and provide a report to all parties regarding the results and steps taken by the Company to address the complaint. Id. Also, the Company will review its chlorination practices to ensure an optimal level of chlorine from a safety perspective while considering the impact on the water provided at the tap, and provide a report to all parties. Id. at pp. 3, 4.

OCA further notes that pursuant to Pennsylvania Department of Environmental Protection (DEP) requirements, Eaton must have adequate power sources to ensure uninterrupted system service to users. 25 Pa. Code § 109.708; 48 Pa.B. 4974. OCA Statement at p. 4. As part of the Settlement, the Company will notify the signatory parties when it has complied with its DEP-approved Uninterrupted System Service Plan and will provide copies of invoices for its actual costs. Id. OCA states that both of these Settlement provisions are in the public interest, because they help to ensure that that customers are receiving safe, adequate and uninterrupted service. Id.

OCA submits that the terms and conditions of the proposed Settlement of these rate proceedings represent a fair and reasonable resolution of the issues and claims raised by the OCA. Id. at p. 5. If approved, the proposed Settlement would provide for a combined increase of approximately \$52,000 in annual revenues, which is reduced from the \$135,546 annual increase proposed in Eaton's filing. Id. In addition, customers will benefit from the provisions addressing service quality issues. Id. Finally, the Commission and all parties would benefit from the reduction in rate case expense and the conservation of resources made possible by adoption of the Settlement in lieu of full litigation. Id.

d) OSBA's Position

In its Statement in Support of Settlement, OSBA notes that in its Complaints and Prehearing Memoranda, it identified several issues of concern, including the following:

1. Whether Eaton has properly justified its revenue requirement requests;

2. Whether the Company's claimed rate of return of common equity in each proceeding is excessive;
3. Whether the Company's proposed revenue allocation and rate design would result in unjust and/or unreasonable rates; and
4. Any other issues that may affect Eaton's small business customers.

OSBA Statement at p. 3. In addressing these concerns, OSBA notes that it has actively participated in the negotiations which have led to the filing of the Joint Petition for Settlement, and that the OSBA is a signatory to the Settlement and urges the Commission's approval of the Settlement without modification. Id.

OSBA notes that in the Company's original filings, Eaton proposed a revenue increase of \$73,973 (45%) for its wastewater customers, and \$61,573 (35%) for its water customers. Id. at p. 4. In contrast, the Settlement provides only \$42,006 additional annual operating wastewater revenues (25.5%), and \$10,028 additional annual operating water revenues (5.7%). Id.

OSBA states that although it did not sponsor specific adjustments to the Company's requested revenue requirements, it did agree with or did not oppose every modification suggested by the OCA and I&E, which were ultimately approved by the Company. Id. OSBA states that, as revised, both Eaton's wastewater and water operations will have the revenue it needs to ensure the same consistent level of service its customers have come to expect. Id. In addition, the level of revenue will allow the Company to meet changing DEP requirements, and also affords Eaton's customers gradualism and avoidance of rate shock, which would not have been available had the Company's tariffs been accepted as proposed. Id.

OSBA also states that Eaton's commercial customers currently pay more for water and wastewater service than residential customers, and that OSBA sought in this proceeding to begin the process of reducing the current difference in rates paid by residential and commercial customers for water and wastewater service. Id. at p. 5. To that end, OSBA notes that the Settlement includes a revenue allocation and rate design for wastewater and water

service that reflects a compromise among the parties' positions, specifically, increases that are smaller than proposed for both the customer charge and volumetric portions of the bill, and produces a small reduction in the rate differential paid by Eaton's residential and commercial customers. OSBA Statement at p. 5. OSBA notes that this is especially important to commercial customers in the first block of usage, as that rate affects all Eaton's commercial customers. In addition, to make further progress toward an appropriate allocation methodology going forward, the OSBA requested (and the Company agreed) that Eaton examine the viability of implementing separate rates for small and large commercial customers prior to its next base rate filing. Id. at pp. 5, 6. Although not a definitive conclusion on allocation going forward, OSBA states that this information could better inform the parties of the feasibility of making further changes to Eaton's rate structure. Id. Collectively, with these compromises and commitments in the Settlement, the OSBA finds that the Settlement provides a meaningful benefit to Eaton's wastewater and water commercial customers. Id.

OSBA further notes that settlement of this proceeding avoids the litigation, time, and expense of complex, competing proposals and saves customers the possible significant costs of further administrative proceedings. Id. at p. 6. Such costs are borne not only by Joint Petitioners, but also by the Office of Administrative Law Judge and the Commission itself, and ultimately Eaton's 131 customers. Id. Avoiding further litigation of this matter by approving this reasonable, compromised proposal will serve judicial efficiency, and will allow all Joint Petitioners, including OSBA, to more efficiently employ its time and attention to other matters. Id.

#### 4) Disposition

Having reviewed the various filings, including the Joint Petition for Settlement and Statements in Support of Settlement, I conclude that the Settlement is in the public interest and should be adopted in its entirety without modification. The reasons behind this conclusion follow below.

As an initial matter, I note that 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 the specifics of 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). As a result, I find that the submission of a black box settlement in this case is reasonable.

The Settlement is in the public interest because it ensures that Eaton’s ratepayers will continue to receive safe and reliable service at reasonable rates, while minimizing the originally requested rate increase. Instead of Eaton’s originally proposed revenue increases of \$73,973 (45%) for its wastewater customers, and \$61,573 (35%) for its water customers, the Settlement provides only \$42,006 additional annual operating wastewater revenues (25.5%), and \$10,028 additional annual operating water revenues (5.7%). These are very significant decreases in the originally requested rates proposed by Eaton. As such, the rate impact to Eaton’s ratepayers is minimized by the terms of the Settlement. Under the proposed Settlement, a bill for a typical residential water customer using 5,000 gallons of water per month would increase from \$37.30 to \$40.15, or by 7.6%, rather than to \$50.35 (35%) as originally proposed by the Company. Additionally, a bill for a typical wastewater customer using 5,000 gallons of water per month would increase from \$51.65 to \$66.75, or by 29.2%, rather than to \$74.90 (45%), as originally requested by Eaton.

Additionally, the Settlement produces a small reduction in the rate differential paid by Eaton’s residential and commercial customers. Moreover, in order to make further

progress toward an appropriate allocation methodology going forward, the OSBA requested (and the Company agreed) that Eaton examine the viability of implementing separate rates for small and large commercial customers prior to its next base rate filing.

The Settlement also addresses concerns about the inclusion of a disputed item in Eaton's rate base. Although the Company's filing originally included the acquisition adjustment related to the acquisition of Eaton Hills, Inc., the Settlement specifically does not include the acquisition adjustment related to the acquisition of Eaton Hills, Inc. Therefore, this particular dispute is resolved by the Settlement.

In addition to the above, the Settlement addresses specific safety concerns raised by Mark and Barbara Stamer, who had filed Formal Complaints with the Commission complaining of possible chlorine-related issues. In that regard, the Stamers have complained of an unpleasant chlorine taste in their water, and have requested that the issue be investigated. The Settlement reflects that the Company will update its 2007 chlorination report that was agreed upon in its 2007 base rate proceeding and that it will provide the report to the signatory parties and to the Commission's Bureau of Technical Utility Service within 90 days of the date of Commission Order. Additionally, the Settlement provides that Eaton will investigate the complaints of Mark and Barbara Stamer that their water has an unpleasant chlorine taste. I conclude that these Settlement terms are designed to address the Stamers' concerns and to help ensure that Eaton is meeting its obligations under Section 1501 of the Public Utility Code to provide safe and reliable water service to all of its customers. 66 Pa.C.S. § 1501.

With regard to the Formal Complaints filed by the Mark and Barbara Stamer and Michael Kelly, I note that OCA sent a Notice of Settlement to those parties on October 1, 2019. In the Notice, OCA advised the Complainants that they could join in the Settlement, file their objection to the Settlement, or take no action with regard to the Notice. The deadline for filing notice of joining the Settlement or objecting to the Settlement was a postmark date of October 15, 2019. No objections to the Settlement have been filed by the Stamers or Mr. Kelly. Accordingly, the Formal Complaints filed by the Stamers and Mr. Kelly will be closed as part of the Ordering Paragraphs in this Recommended Decision.

Additionally, I note that the Settlement avoids the expense and burden of continued litigation in this consolidated proceeding. The Settlement will save the parties from expending substantial time and expense involved with further litigation. Had this case continued to be litigated, the parties would have incurred extensive additional costs, including the exchange of pre-served testimony, service of discovery requests and answering discovery requests, hearings, briefs, exceptions and possible appeals. Avoiding such expenditures minimizes the costs that Eaton might ultimately pass on to the ratepayers, and also conserves the resources of all other parties involved in these proceedings, and preserves Commission resources as well.

Finally, I note that the Settlement should be approved as being in the public interest because it is supported by substantial evidence. In this proceeding, the parties have stipulated to the facts set forth in the Settlement. The parties have also engaged in three separate mediation conferences. These efforts demonstrate that the initial filings of the company and the responses to the filings have been thoroughly vetted and considered by all concerned parties. These efforts also demonstrate that the parties are satisfied that there are no unresolved evidentiary issues at this point of the proceeding. As a result, I conclude that the Settlement is supported by substantial evidence in the record of this proceeding and that the Settlement is therefore in the public interest and should be approved without modification.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S. §§ 501, 1301, 1308(d).

2. Decisions of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 194 Pa. Super. 278, 166 A.2d 96 (1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

3. A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. Pennsylvania Gas and Water Co. v. Pennsylvania Pub. Util. Comm'n, 341 A.2d 239 (Pa. Cmwlth. 1975).

4. 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).

5. 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. Allegheny Center Assocs. v. Pennsylvania Pub. Util. Comm'n, 570 A.2d 149, (Pa. Cmwlth. 1990).

6. The Commission has expressed a policy of encouraging settlements and has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code §§ 5.231, 69.401.

7. The Commission permits “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).

8. The Joint Petitioners, as the parties seeking a rule or order from the Commission in this proceeding, have the burden of proving that the terms and conditions of the settlement are just, reasonable, and in the public interest. 66 Pa.C.S. § 332(a).

9. The benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. Warner v. GTE North, Inc., Docket No. C-00902815 (Opinion and Order entered April 1, 1996); Pa. Pub. Util. Comm’n v. CS Water and Sewer Associates, 74 Pa. PUC 767 (1991).

10. The Joint Petitioners have met their burden of proof to demonstrate that the Joint Petition for Settlement is just, reasonable, and in the public interest. 66 Pa.C.S. § 332(a).

11. The Joint Petition for Settlement filed at Docket Numbers R-2019-3009559 and R-2019-3009567 and dated October 1, 2019 is in the public interest and should be approved in its entirety without modification.

### ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the stipulated facts contained in the Joint Petition for Settlement filed on October 1, 2019 in this consolidated proceeding at Docket Numbers R-2019-3009559 and R-2019-3009567 are hereby adopted and entered into the record of this proceeding.

2. That the Formal Complaints filed by the Office of Small Business Advocate at Docket Nos. C-2019-3009809 and C-2019-3009811, the Formal Complaints filed by the Office of Consumer Advocate at Docket Nos. C-2019-3010191 and C-2019-3010186, the Formal Complaints filed by Mark and Barbara Stamer at Docket Nos. C-2019-3012551 and C-2019-3012546 and the Formal Complaints filed by Michael Kelly at Docket Nos. C-2019-3011775, C-2019-3011776, are hereby consolidated into this proceeding.

3. That Eaton Water shall not place into effect the rates contained in Supplement No. 2 to Wastewater – PA P.U.C. No. 3 ("Wastewater Supplement No. 2") filed on April 29, 2019 at Docket No. R-2019-3009559.

4. That Eaton Sewer shall not place into effect the rates contained in Supplement No. 2 to Water – PA P.U.C. No. 3 ("Water Supplement No. 2") filed on April 29, 2019 at Docket No. R-2019-3009567.

5. That the Joint Petition for Settlement filed on October 1, 2019 at Docket Nos. R-2019-3009559 and R-2019-3009567 is approved in its entirety without modification because it is in the public interest and is supported by substantial evidence.

6. That Eaton Sewer & Water Company shall file a tariff supplement with the Commission, reflecting the rates set forth in the Tariffs attached to the Joint Petition for Settlement as Appendices C and D upon entry of a Commission Order to become effective as expeditiously as possible, but no earlier than January 1, 2020; and

7. That after Eaton Sewer & Water Company files the required tariff supplement set forth in Ordering Paragraph 5 above, the Commission shall terminate the inquiries and investigations at Docket Nos. R-2019-3009559 and R-2019-3009567

8. That after Eaton Sewer & Water Company files the required tariff supplement set forth in Ordering Paragraph 5 above, the Commission shall mark the Formal Complaints of the Office of Small Business Advocate at Docket Nos. C-2019-3009809 and C-2019-3009811 as satisfied and closed.

9. That after Eaton Sewer & Water Company files the required tariff supplement set forth in Ordering Paragraph 5 above, the Commission shall mark the Formal Complaints of the Office of Consumer Advocate at Docket Nos. C-2019-3010191 and C-2019-3010186 as satisfied and closed.

10. That after Eaton Sewer & Water Company files the required tariff supplement set forth in Ordering Paragraph 5 above, the Commission shall close the Formal Complaints filed by Michael Kelly in Docket Nos. C-2019-3011775 and C-2019-3011776.

