COMMONWEALTH OF PENNSYLVANIA

April 9, 2021

E-FILED

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

Re: Pennsylvania Public Utility Commission, v. Pike County Light & Power Company (Electric) / Docket No. R-2020-3022135

Dear Secretary Chiavetta:

Enclosed please find the Reply Brief, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Sharon E. Webb

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Enclosures
cc: Robert D. Knecht
Parties of Record

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
v.	:	DOCKET NO. R-2020-3022135
PIKE COUNTY LIGHT AND POWER COMPANY (ELECTRIC)	:	

REPLY BRIEF
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE

Sharon E. Webb
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For: John R. Evans
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Dated: April 9, 2021

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I. **Introduction**

On October 26, 2020, Pike County Light and Power Company ("PCL&P" or "Company") filed Supplement No. 82 to Tariff Electric - Pa. P.U.C. No. 8 ("Supplement No. 82") with the Pennsylvania Public Utility Commission ("Commission") a request for additional annual distribution revenues of $1,933,600 million per year, an increase of 17.3% on a total bill basis, or 36.9 percent on a base rate basis.[1]

On December 17, 2020, the Commission suspended the proposed effective date of PLC&P''s filing and instituted an investigation into the justness and reasonableness of the issues raised in the PCL&P filing.

On November 13, 2020, the Office of Small Business Advocate ("OSBA") filed a complaint against the PCL&P filing.

On January 11, 2021, a prehearing conference was held before Administrative Law Judge ("ALJ") Mary D. Long.

On January 13, 2021, ALJ Long issued her Scheduling Order.

On February 2, 2021, the OSBA submitted the direct testimony of Robert D. Knecht. On February 22, 2021, the OSBA submitted the rebuttal testimony of Mr. Knecht. March 4, 2021, the OSBA submitted the surrebuttal testimony of Mr. Knecht.

Prior to the evidentiary hearings, the parties reached agreement on a revenue requirement increase of $1,400,000, or some 26.9 percent of future test year current rate revenues. Despite extensive negotiations, the parties have not been able to resolve the issues of revenue allocation and rate design. On March 29, 2021, Counsel for the Company advised ALJ Long that the parties were at an impasse on revenue allocation,

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[1] See OSBA Statement No. 1 at 2.

and requested an extension of the time to file briefs on the issue. ALJ Long, via email to the parties on March 29, 2021, granted the request to defer the filing of Main Briefs until noon on April 5, 2021. After further negotiations, the parties were unable to resolve the issue of revenue allocation.

Evidentiary hearings scheduled for March 9-12, 2021, were cancelled as all parties waived cross examination.

The OSBA submitted its main brief on April 5, 2021.

A Joint Petition for Partial Settlement ("Partial Settlement") is being submitted concurrently with reply briefs, which addresses revenue requirement and customer charge issues.

The OSBA submits this Reply Brief in response to the issues raised in the Main Briefs of other parties and pursuant to the procedural schedule set forth in ALJ Long's January 13, 2021, Scheduling Order as modified by her March 29, 2021 email.

II. Summary of Reply Argument

Allocated cost of service is the polestar criterion for revenue allocation and rate design in Pennsylvania.[2] The OSBA relies on the arguments made in its Main Brief, and responds to specific arguments made in the Main Briefs of other parties in this reply brief.

The OSBA respectfully submits that the only two cost allocation studies presented in this proceeding that do not contain obvious errors are the Company's rebuttal ECOSS (equivalent to OSBA ECOSS I) and OSBA ECOSS II. Of these, the OSBA ECOSS II

[2] *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 101OSOOSBA0, 1020 (Pa. Cmwlth. 2006)

reflects the far superior methodology. The ALJ and the Commission should adopt OSBA's ECOSS II. In the alternative, the ALJ and the Commission should adopt the Company's rebuttal ECOSS (which is equivalent to OSBA I).

Regarding revenue allocation, the ALJ and the Commission should adopt the OSBA's revenue allocation proposal (OSBA II) as set forth in the OSBA's Main Brief.

The OSBA respectfully submits that the only revenue allocation proposals in the record that are based on technically correct cost analysis and are reasonably consistent with Commission precedent are the two revenue allocations put forward by the OSBA.

III. Rate Structure

A. Cost Allocation

The OSBA addressed the issues relating to the electric class cost of service studies in its Main Brief.[3]

1. The PCL&P Cost of Service Studies

The OSBA addressed the issue of the Company's original and revised ECOSS in its Main Brief.[4] The Company acknowledges that its originally filed ECOSS contained errors that were corrected in rebuttal.[5] The OSBA observes that the Company's rebuttal testimony presented a revised version of its ECOSS in Exhibits E-6 Rev and E-7 Rev based on the historic test year ending June 30, 2020.[6] The Company's Main Brief then makes reference to a future test year version of the ECOSS submitted in response to I&E-

[3] OSBA Main Brief at 6.
[4] OSBA Main Brief at 2 and 6.
[5] PCL&P Main Brief at 3.
[6] PCL&P Exhibits E-6 Rev and E-7 Rev, attached to PCL&P Statement No. 1-R.

RS-11, as if this were a future test year version of the ECOSS corrected for the Company's admitted errors.[7] It is not. The Company did not submit a future test year version of its ECOSS on the record that was corrected for the technical errors identified by Mr. Knecht. The Company's response to the referenced I&E interrogatory retained the errors in the filing and is thus not a reasonable basis for revenue allocation or rate design in this proceeding.[8]

2. The OSBA Cost of Service Studies

In its Main Brief, the OSBA laid out modifications made to the Company's ECOSS and its recommendations for modifications to make it more consistent with Commission precedent and cost causation. The OSBA stands by the arguments as addressed in its Main Brief.[9]

3. The I&E and OCA Cost of Service Studies

In its Main Brief, the I&E continues to rely on the Company's originally filed ECOSS which contains the errors identified in Mr. Knecht's testimony and also set forth in the OSBA's Main Brief at 13. In fact, I&E declines to even acknowledge that the Company's filed ECOSSs contained the serious technical errors which the Company has readily admitted. The I&E Main Brief cites only to the originally filed ECOSS, and the Company's updated future test year version of that ECOSS, both of which contained the error identified by Mr. Knecht.[10] The I&E's reliance on the Company's error-laden

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[7] PCL&P Main Brief at 3.
[8] OSBA Statement No. 1-R at 2.
[9] OSBA Main Brief at 9
[10] I&E Main Brief at 6, OSBA Statement No. 1 at 6.

ECOSS models should be rejected. The OSBA stands by the arguments as set forth in its Main Brief.[11]

The OCA in its Main Brief, likewise relied on its alternative version of the Company's ECOSS which both retained the errors in the Company's original ECOSS and adopted a cost allocation method for electric distribution plant that has been consistently rejected by the Commission. Unlike the OSBA's acknowledgement of Commission precedent in the Company's concurrent gas base rates proceeding (to the detriment of small business customers), OCA is unfortunately unwilling to accept Commission precedent when it is less favorable to residential customers. The OSBA stands by the arguments as set forth in its Main Brief. The OSBA respectfully submits that Dr. Pavlovic's ECOSS contains obvious technical errors, it is not consistent with Commission precedent, and it is thus not appropriate for revenue allocation or rate design in this proceeding.[12]

B. Revenue Allocation

1. The PCL&P Revenue Allocation Proposal

In its Main Brief, the OSBA set forth a comprehensive explanation of the deficiencies with the Company's revenue allocation proposals.[13] Specifically, PCP&L's originally filed revenue allocation proposal was based on its erroneous ECOSS, and its slightly revised rebuttal revenue allocation did not reflect the significant changes in its cost allocation results. The OSBA compiled the results of the Company's rebuttal revenue allocation proposal, which was presented in the OSBA's Main Brief.[14]

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[11] OSBA Main Brief at 12
[12] OSBA Main Brief at 13
[13] OSBA Main Brief at 14.
[14] OSBA Main Brief at 15.

Having failed to develop a revenue allocation proposal that was consistent with its rebuttal ECOSS in its rebuttal or surrebuttal testimony, the Company is undeterred by the rules of evidence and used its Main Brief as a basis to present an entirely new cost allocation study and revenue allocation proposal based on evidence that is not in the record. While the OSBA will leave the issues of the propriety of this use of extra-record evidence and possible sanctions up to the Commission, the OSBA submits that Company's revenue allocation presented in its Main Brief should be ignored.

Specifically, PCL&P's Main Brief presents Table ER1 which purportedly provides summary results of a corrected ECOSS for the 12 months ending June 30, 2021. The Company offers no reference to record evidence for these results, and the OSBA is unable to locate any such ECOSS submission in this proceeding. It appears that the Company has attempted to use its brief to update its response to I&E-RS-11 to belatedly reflect the errors in the original response. The OSBA, of course, has had no due process opportunity to review this analysis or to provide rebuttal or cross-examination of this new evidence. OSBA submits that the Commission ignore this new evidence.

The Company's Main Brief goes on to present Table ER2 which purportedly shows the summary ECOSS revenue deficiency for the 12 months ending June 30, 2021 for a $1.4 million deficiency. The Company's Main Brief again has no reference to record evidence in support of this table. Moreover, the table purportedly relates to a Partial Settlement revenue deficiency of $1.4 million, and thus cannot be based on record evidence. The OSBA submits that the Commission should ignore this untested new evidence.

The Company then presents what appears to be a brand-new revenue allocation proposal in Table ER3, which is also unsupported by any reference to record evidence.

The OSBA submits that the Company had ample opportunity to reasonably propose an alternative revenue allocation in its rebuttal testimony when it acknowledged the errors in its ECOSS, but it irresponsibly failed to do so. OSBA Statement No. 1-S at 3. The OSBA submits that it should not be permitted to do so in its Main Brief, and that the Commission should ignore this new and untested evidence.

Finally, assuming *arguendo* that the Commission allows the Company to submit an entirely new cost allocation study and an entirely new revenue allocation proposal in its Main Brief, the OSBA submits that the Company's new proposal does not even pass a laugh test. First, while it is impossible to tell for certain without having access to this new evidence, the Company's newly minted ECOSS presumably fails to include all of the corrections detailed in the OSBA ECOSS, notably making the allocation of electric distribution plant more consistent with established Commission precedent, correcting the allocation of service lines, and developing a credible meters installation cost estimate.[15] Regarding the new proposed rate design, Table ER2 shows that a cost-based increase for the SC2-P class would be \$20,317, or 5.8 percent, whereas the Company proposes an increase for that class of more than four times that amount (\$84,844) at 24.2 percent. This proposal is hopelessly inequitable, and is of course inconsistent with cost being the polestar criterion for revenue allocation in Pennsylvania. In addition, the Company continues its policy of discriminating against smaller commercial customers in favor of residential and lighting customers. The cost results in Table ER2 indicate that the SC2-S class costs imply that the class should be assigned an increase of \$495,211 or 24.3 percent, a below system-average increase reflecting the class' above system average rate of return. However, in its

[15] OSBA Main Brief at 9-12.

new revenue allocation, the Company proposes to assign that class an increase as large as that assigned to any rate class. In short, even if the Company's new evidence is permitted, the Company's proposal is not consistent with either the cost standard or fairness in rate design.

2. *The OSBA Revenue Allocation Proposals*

The OSBA presented two alternative revenue allocation proposals in the testimony of Mr. Knecht as set forth in the OSBA's Main Brief. Both are designed to move rates more into line with allocated costs, and both are constrained to be consistent with the principle of rate gradualism. To reflect rate gradualism, Mr. Knecht applied a rule-of-thumb often offered in Pennsylvania, namely that no class increase exceeds 1.5 times the system average increase. OSBA Statement No. 1 at 27-29. As shown in Tables IEc-5 and IEc-6 of Mr. Knecht's testimony, both revenue allocation proposals are substantially effective in moving rates more into line with allocated cost, as measured by revenue-cost ratios at present and proposed rates.

The OSBA does not oppose proportional scaleback to either OSBA revenue allocation recommendation in this proceeding. The summary table of the proportional scaleback was set forth in the OSBA's Main Brief at 5. For the convenience of the reader, and as set forth in the OSBA's Main Brief, the summary table below reflects the proportional scaleback to reflect the settled revenue requirement.

OSBA Revenue Allocation Proposals ($000)				
	OSBA I	**Percent**	**OSBA II**	**Percent**
Total Residential (SC1)	$863.6	32.2%	$1,081.4	40.3%
Small C&I Secondary (SC2-S)	$471.8	22.9%	$273.8	13.3%

Small C&I Primary (SC2-P)	$27.6	7.9%	$0	0.0%
Municipal Lighting (SC3)	$25.3	29.4%	$33.0	38.3%
Private Area Lighting (SC4)	$11.8	40.3%	$11.8	40.3%
Total	**$1,400.0**	**26.9%**	**$1,400.0**	**26.9%**
Source: OSBA Statement 1, Tables IEc-5 and IEc-6, scaled back proportionately				

3. *The I&E and OCA Revenue Allocation Proposals*

The OSBA fully addressed the problems and issues with the OCA revenue allocations in its Main Brief. In short, the OCA relies on Dr. Pavlovic's ECOSS for its revenue allocation proposal, and that ECOSS is not consistent with Commission precedent and contains admitted errors.

The I&E Main Brief cites to I&E Witness Sakaya's surrebuttal testimony regarding a revenue allocation proposal reflecting the Company's reduced revenue requirement in its rebuttal testimony. Unfortunately, Witness Sakaya completely ignored the corrections to the Company's ECOSS in developing his revised surrebuttal revenue allocation proposal. Witness Sakaya makes no mention of the revised cost allocation results in surrebuttal testimony and refers only to the original Company ECOSS's containing the admitted errors.[16] Moreover, Witness Sakaya's surrebuttal revenue allocation proposal as reported by the I&E Main Brief is identical to the flawed revenue allocation proposal in direct testimony, as shown in the table below. Since Witness

[16] I&E Statement No. 3-SR at 13.

Sakaya obviously failed to reflect the corrected cost allocation results in his surrebuttal testimony, his surrebuttal recommendation is similarly irrelevant.

I&E Revenue Allocation Proposals ($000)		
	Direct	**Surrebuttal**
Total Residential (SC1)	$826.2	$826.2
Small C&I Secondary (SC2-S)	$941.2	$941.2
Small C&I Primary (SC2-P)	$116.3	$116.3
Municipal Lighting (SC3)	$32.5	$32.5
Private Area Lighting (SC4)	$11.0	$11.0
Total	**$1,927.2**	**$1,927.2**
Source: I&E Exhibit 3, Schedule 7, I&E Main Brief,		

C. Rate Design

The OSBA fully addressed this issue in its Main Brief. The Company's main brief does not even bother to present the Company's case and cites only to the Company's filed evidence which is fully addressed in OSBA's Main Brief. However, the Company goes on to assert that its approach to rate design ". . . provides a basis for the proposed rate designs under the $1,400,000 settlement revenue requirement . . ." The OSBA observes that the Partial Settlement does not include a full rate design for any class, but addresses only the customer charge for the SC1, SC2-S and SC2-P rate classes.[17] The OSBA submits that

[17] The Partial Settlement agrees to a customer charge of $17.26 per month for the SC2-S class, which the OSBA inadvertently cited as $12.83 per month on page 5 its Main Brief. The OSBA regrets the error.

there is no record evidence in support of a rate design at the $1,400,000 Partial Settlement increase.

IV. <u>Conclusion</u>

Wherefore, the OSBA requests that the ALJ and the Commission adopt the OSBA's "OSBA II" revenue allocation proposal. However, if, *arguendo,* the Commission adopts the Company's corrected rebuttal ECOSS as the proper cost basis for revenue allocation in this proceeding, the OSBA respectfully submits that the "OSBA I" revenue allocation proposal is the only revenue allocation proposal on record in this proceeding that is consistent with that analysis.

Respectfully submitted,

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Dated: April 9, 2021

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
v.	:	**Docket No. R-2020-3022135**
	:	
PIKE COUNTY LIGHT AND POWER COMPANY (ELECTRIC)	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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