



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

April 22, 2021

Via Electronic Filing

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
I&E Reply Comments

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Reply Comments of the Bureau of Investigation and Enforcement (I&E)** for the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. *Due to the temporary closing of the PUC's offices, I&E is only providing electronic service.* Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in cursive script that reads 'Erika L. McLain'.

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Enclosures

cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3022135
	:	
Pike County Power and Light Company –	:	
Electric	:	

**REPLY COMMENTS OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

I. INTRODUCTION

On April 16, 2021 a *Joint Petition for Non-Unanimous Settlement* was filed in the instant proceeding. The settling parties included Pike County, the Bureau of Investigation and Enforcement (“I&E”), and the Office of Consumer Advocate (“OCA”). On April 20, 2021 Comments in opposition to the Settlement were filed by the Office of Small Business Advocate (“OSBA”). The Bureau of Investigation and Enforcement hereby submits that the terms and conditions of the *Joint Petition for Non-Unanimous Settlement* are in the public interest and represent a reasonable and equitable balance of the interests of Pike County and Pike County’s customers, and hereby files these Reply Comments responding to the arguments set forth in the Comments filed by OSBA.

As explained in its Statement in Support, I&E has conducted an extensive investigation into this rate proceeding. The extensive and open discussions resulting therefrom culminated in the carefully negotiated and balanced settlement. I&E requests approval of the Joint Petition based on I&E’s determination that the Settlement Agreement meets all the legal and regulatory

standards necessary for approval. “The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest.”¹ 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.”² As a product of negotiation and compromise between the settling parties, this Non-Unanimous Settlement Agreement reflects concessions from the signatories. Accordingly, the Bureau of Investigation and Enforcement believes that the terms and conditions of the Joint Petition are in the public interest.

In support of this position, I&E offers the following:

II. COMMENTS

A. I&E presented a valid revenue allocation proposal in this proceeding.

In its Comments, OSBA argues that due to errors in the Company’s cost of service study (“COSS”), all other parties proposed cost of service studies are flawed.³ Specifically, OSBA stated that I&E witness Sakaya generally accepted the Company’s COSS but failed to correct for the errors in the Company’s filed COSS.⁴

However, as was discussed in I&E’s Main Brief, the COSS provided by the Company did not reflect the rate of return and relative rate of return under proposed rates. As such, I&E Witness Sakaya conducted an analysis of the relative rates of return under proposed rates for the different rate classes.⁵ Witness Sakaya developed a schedule calculating the relative rates of return based upon revenue, expenses, taxes, net income, and rate base by

¹ *Pennsylvania Public Utility Commission v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

² *Pennsylvania Public Utility Commission v. C S Water and Sewer Associates*, 74 PA PUC 767, 771 (1991).

³ OSBA Comments, p. 3.

⁴ OSBA Comments, p. 4.

⁵ I&E St. No. 3, p. 22.

class.⁶ While the rates of return for the Small Business and Large Commercial classes were slightly under the cost to serve, Witness Sakaya accepted the Company's COSS as the results were only slightly below the relative rate of return.⁷ The methodology chosen by the Company was deemed acceptable to I&E. Therefore, contrary to OSBA's position, I&E's approach is consistent with sound ratemaking principles.

OSBA claims in its Comments that it is inappropriate for the Non-Unanimous Settlement to rely on revenue allocation evidence other than that submitted by the OSBA.⁸ This claim is absurd. The Commission determined in the *Peoples*⁹ case that there is not one specific method that must be used to develop a COSS; therefore, OSBA's contention that it is the only party that has offered credible evidence is demonstrably incorrect upon review of other party testimony. Moreover, it does not take into account that good faith negotiations consider all evidence when attempting to reach an agreement. Here, as was explained above, I&E's position is consistent with sound ratemaking principles and should not be disregarded during settlement discussions.

B. The Non-Unanimous Settlement is premised upon record evidence.

The OSBA argues that the rationales behind the settling parties' statements in support are consistent in their lack of credible evidentiary basis.¹⁰ The OSBA goes on to state that, "[a] settlement must be much more than simply an average of the positions of the parties; it must be reasonable, and it must be consistent with the evidence."¹¹ In particular, the OSBA

⁶ I&E St. No. 3, p. 22, and I&E Exh. No. 3, Sch. 5.

⁷ I&E St. No. 3, p. 31.

⁸ OSBA Comments, p. 5.

⁹ *Pa. P.U.C. v. Peoples Natural Gas Company*, Docket No. R-2010-220172, R.D. at 26 (Order entered June 9, 2011).

¹⁰ OSBA Comments, p. 5.

¹¹ OSBA Comments, p. 7.

argues the I&E's Statement in Support is inconsistent with the evidentiary record because I&E relied upon the originally-filed COSS.¹²

As argued above and in I&E's Main and Reply Briefs, I&E's litigated position is based upon sound ratemaking principles and is reasonable insofar as it moves each customer class closer to its cost to serve. Revenue allocation is not a precise science with a particular formula that works in all instances. I&E accepted the Company's COSS because the methodology chosen by the Company was reasonable in I&E's review. Expert witnesses often differ on which methodologies to use when offering their opinions in rate case proceedings because a preferred method does not exist. Furthermore, the OSBA has not offered any evidence to suggest that its COSS moves each customer class towards its cost to serve.

In its Comments, OSBA disagreed that the Commission accepts a variety of cost allocation methods in making revenue allocation determinations.¹³ OSBA goes on to cite to the recent Columbia Gas¹⁴ and UGI Electric¹⁵ base rate cases where the Commission relied upon different cost allocation methods to get to its outcome. The OSBA's position that the Commission does not accept a variety of cost allocation methods is in complete contradiction of the two base rate cases it cited to where the Commission used different allocation methodologies offered by different parties.

¹² OSBA Comments, p. 9.

¹³ OSBA Comments, pp. 7-8.

¹⁴ *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2020-3018835 (Order entered February 19, 2021).

¹⁵ *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2017-2640058 (Order entered October 25, 2018).

There is ample evidence introduced by the settling parties to show that the Non-
Unanimous Settlement position on revenue allocation is appropriate and sufficiently
supported by the record.

III. CONCLUSION

The Commission's Bureau of Investigation and Enforcement supports the Non-
Unanimous Settlement as being in the public interest and respectfully requests that
Administrative Law Judge Mary D. Long reject the Office of Small Business Advocate's
Comments and recommend, and the Commission subsequently approve, the terms and
conditions contained therein.

Respectfully submitted,



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Dated: April 22, 2021

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(Electric)	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Reply Comments** dated April 22, 2021, in the manner and upon the persons listed below:

Served via Electronic Mail Only

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