

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2020-3022135
Office of Small Business Advocate	:	C-2020-3022858
Office of Consumer Advocate	:	C-2020-3022887
Shelley Saul	:	C-2020-3022921
Dawn Metzger	:	C-2020-3022987
Anthony Pinkala	:	C-2020-3023020
William H. Yennie, III	:	C-2020-3023035
John W. Dalton, Jr.	:	C-2020-3023239
Charles Gillinder	:	C-2020-3023416
Carol Losee	:	C-2020-3023152
Marla J. Hulse	:	C-2020-3023418
Candace Howard	:	C-2020-3023490
	:	
v.	:	
	:	
Pike County Light and Power Company - Electric	:	

RECOMMENDED DECISION

Before
Mary D. Long
Administrative Law Judge

INTRODUCTION

This decision recommends approval of the Joint Petition for Partial Settlement filed by the active parties, which allows Pike County Light and Power – Electric to increase distribution revenue by \$1.4 million. This is a reduction of the as filed revenue increase proposed by the company in the amount of \$1.9 million.

This decision also recommends approval of the non-unanimous Joint Petition for Settlement on Rate Structure and Rate Design, which distributes the revenue increase among Pike County Light and Power’s customer classes. The result of the Rate Structure in Petitioners’

settlement is that the average residential customer will see an estimated 12.1% increase, or roughly \$12.59 increase in their monthly electricity costs. Similarly, the average commercial – demand (SC2-Secondary - Demand) customer will see an estimated 17.3% increase, or roughly \$77.91 increase in their monthly electricity costs. Finally, the average commercial non-demand (SC2- Secondary – non-demand) will see an estimated 18.9% increase, or roughly \$13.35 in their monthly electricity costs.

Taken together the two settlements result in just and reasonable rates. Approval of the settlements is in the public interest.

The last Commission Public Meeting before the end of the suspension period (July 28, 2021) is on July 15, 2021.

HISTORY OF THE PROCEEDINGS

On October 26, 2020, Pike County Light & Power Company (PCLP or Pike) filed with the Pennsylvania Public Utility Commission (Commission) Supplement No. 82 to Tariff Electric - Pa. P.U.C. No. 8 (Tariff No. 8) to become effective December 28, 2020, and docketed at R-2020-3022135 (Electric Filing). Tariff No. 8 contains proposed changes in rates, rules, and regulations calculated to produce an increase of \$1,933,600 (24.7%) in additional annual revenues.

The Commission's Bureau of Investigation and Enforcement (I&E) entered an appearance on November 3, 2020. The Office of Small Business Advocate (OSBA) and Office of Consumer Advocate (OCA), each filed complaints on November 13, and November 16, 2020, respectively. Additionally, several ratepayers filed formal complaints: Shelly Saul, Dawn Metzger, Anthony Pinkala, William H. Yennie III, John W. Dalton, Jr., Charles Gillinder, Carol Losee, Marla J. Hulse, and Candace Howard.

By order entered December 17, 2020, the Commission suspended the Electric Filing until July 28, 2021, and instituted an investigation to determine the lawfulness, justness

and reasonableness of the rates rules and regulations contained in the proposed tariff supplements.

By hearing notice dated December 18, 2020, the filings were assigned to me and a prehearing conference was scheduled for January 11, 2021.¹ The prehearing conference convened as scheduled. Counsel for PCLP, I&E, OCA and OSBA appeared (Active Parties). Additionally, three of the ratepayer complainants, Charles Gillinder, John Dalton, and Shelly Saul, appeared and participated. The parties agreed to a schedule for the filing of written testimony. Evidentiary hearings were scheduled to begin on March 9, 2021, by telephone.

Two public input hearings were also scheduled for February 8, 2021 and were conducted by telephone at 1:00 p.m. and 6:00 p.m. These hearings permitted the public to comment on both the Gas Filing and the Electric Filing. Fifteen witnesses testified at the 1:00 p.m. hearing and ten witnesses testified at the 6:00 p.m. hearing.

By email dated March 5, 2021, the Active Parties notified me that they had reached an agreement in principle to resolve the issues raised in the Electric Filing and had agreed to waive cross examination of all witnesses. The hearings were cancelled, and the Active Parties filed a Joint Stipulation for Admission of Testimony and Exhibits into the Evidentiary Record on March 12, 2021. The motion was granted by Interim Order dated March 15, 2021, and the parties were directed to file the admitted testimony and exhibits with the Secretary's Bureau as provided by 52 Pa.Code § 5.412a.

On March 10, 2021, I issued an Interim Order which instructed the Active Parties to file a joint stipulation for settlement along with statements in support by April 9, 2021. That order also directed the remaining parties to file comments, if any, on or before April 19, 2021.

By email dated March 29, 2021, the Active Parties notified me that they had failed to reach a resolution of the allocation of revenue and requested leave to file main briefs on April 5, 2021.

¹ PCLP also filed to increase its gas rates. R-2020-3022134 (Gas Filing). The prehearing conference was a joint conference which addressed the litigation schedule for both filings.

By Interim Order entered March 29, 2021, the parties were granted leave to file main briefs by noon on April 5, 2021. Reply briefs were due by April 9, 2021. Ratepayer complainants were permitted to file comments regarding the litigated issue no later than Wednesday, April 15, 2021. Comments to the settled issues remained due on April 19, 2021.

The Active Parties filed main briefs addressing cost allocation, the allocation of revenue to the various rate classes and rate design on April 5, 2021. The parties filed reply briefs on April 9, 2021. The reply briefs noted that the Active Parties had reached an additional agreement on customer charges for each rate class, which was addressed in the Joint Petition for Partial Settlement.

Also on April 9, 2021, a Joint Petition for Partial Settlement (Revenue Settlement) was filed which included, among other things, the Active Parties' agreement to increase the revenue requirement by \$1.4 million. The Active Parties also stated that they had agreed to customer charges, but that the allocation of revenue and remaining elements of rate design remained unresolved. After reviewing these filings, I determined that the analysis provided by the Active Parties on revenue allocation and rate design were insufficient and did not provide sufficient evidence regarding the rates that would be produced by each parties' position.

On Monday, April 12, 2021, a conference was held, and the Active Parties were directed to convene a settlement conference and attempt to reach a comprehensive agreement, to be filed by April 16, 2021. An Interim Order was issued extended the deadlines for comments and responsive comments.

On April 16, 2021, PCLP, I&E and OCA filed a Joint Petition for Settlement on Rate Structure and Rate Design (Rate Design Settlement), along with statements in support. Charles Gillinder,² by email dated April 18, 2021, opposed the settlements.³ OSBA, which did not join the

² C-2020-3023416. Mr. Gillinder's comments were filed with the Commission's Secretary's Bureau.

³ By email, ratepayer-complainant Anthony Pinkala (C-2020-3023020) joined Mr. Gillinder's comments. Ratepayer-complainant Dawn Metzger (C-2020-3022987) also noted her agreement with Mr. Gillinder's comments.

settlement, filed comments opposing the Rate Design Settlement on April 20, 2021. PCLP, I&E and OCA filed responsive comments on April 22, 2021.

The record closed on April 23, 2021.

PUBLIC INPUT HEARINGS

Two public input hearings were held by telephone on February 8, 2021. While 25 witnesses testified, many others called to listen to the proceedings. Overall, the witnesses opposed the proposed increases in both the Gas Filing and the Electric Filing. Other testimony was directed specifically to the Electric Filing.⁴ Leaders from each of the local governments, including Pike County,⁵ Milford Township⁶ and Milford Borough⁷ testified, as well as residential and small business customers. All opposed the proposed rate increase.

The government officials who testified described the community served by PCLP as small and tight-knit. The area does not have any large industry.⁸ The commercial class consists of small, “mom and pop,” businesses. On the whole the population is older than average, and lower income.⁹ Many residents are renters.¹⁰ The community relies heavily on tourism.¹¹ While many homes are typically occupied on weekends or seasonally, many of these

⁴ The testimony related specifically to the Gas Filing is addressed in the Recommended Decision at Docket R-2020-3022134.

⁵ Matthew Osterberg, Chair, Pike County Commissioners, N.T. 82-84; Pike County Commissioners Ex. 1.

⁶ Rachel Hendricks, Township Supervisor, Milford Township, N.T. 151-57.

⁷ Frank Tarquinio, President of Milford Borough Council, N.T. 69-72; Sean Strub, Mayor, Milford Borough, N.T. 101-104.

⁸ Strub, N.T. 101-102.

⁹ Strub; Tarquinio.

¹⁰ Strub.

¹¹ Tarquinio, N.T. 69-70.

residences are now occupied full-time because of the pandemic.¹² Many residents are renters.¹³ The pandemic has hit the community hard. Many residents are unemployed or have had their income reduced. Small businesses, and especially restaurants and those in the hospitality industry, have also been severely impacted.¹⁴

The government officials testified that the rate increase would not only be a direct hardship on their citizens,¹⁵ but would also impact government budgets as well.¹⁶ For example, Matthew Osterberg, testifying on behalf of the Pike County Commissioners, noted that these increased costs would ultimately have to be paid for with tax revenue.¹⁷

Rachel Hendricks, speaking on behalf of Milford Township, noted her frustration because the Township wanted to control costs by switching streetlights to LED, but were told to wait by PCLP.¹⁸ She also spoke of the adverse impact high electricity costs had on the economic development of her municipality.¹⁹ The high rate of electricity outages, which she characterized as taking place monthly, place burdens on emergency management of the Township.²⁰

Frank Tarquinio, the President of Milford Borough Council, and Sean Strub, Mayor of Milford Borough, echoed the comments of other government leaders, and also

¹² E.g., Provenzano, N.T. 95.

¹³ Strub, N.T. 101-102.

¹⁴ E.g., Hendricks, N.T. 154.

¹⁵ E.g., Osterberg, N.T. 82.

¹⁶ Osterberg, N.T. 82 (increase likely to add \$10,000 in operating costs); Tarquinio, N.T. 69-70 (Borough has 600 connections, including the administrative building, courthouse and nursing homes).

¹⁷ N.T. Osterberg, N.T. 83.

¹⁸ N.T. 153.

¹⁹ N.T. 154, 157.

²⁰ N.T. 154-55.

questioned whether PCLP was managed prudently and questioned whether the increase was really due to increased costs or was instead motivated by profit to shareholders.²¹

Higher costs to business would be passed on to customers through higher prices, exacerbating the impact of the rate increase.²² Several witnesses characterized this as the “domino” effect of the rate increase.²³

Most witnesses testified that the rate increase was too high²⁴ and would cause financial hardship on top of the economic hardship caused by the pandemic.²⁵ Vaughn Hansen noted that many ratepayers will be doubly effected because they own homes and also small businesses.²⁶ Several witnesses noted that they had lost their jobs or had their income reduced.²⁷ Many observed that their utility bills were already higher than normal because they were working from home.²⁸ Many also had school children who were learning remotely because the schools were closed.²⁹ Daniel Wolf noted that the proposed increase was a greater increase than increases in other sectors.³⁰

²¹ Strub, N.T. 104; Tarquinio, N.T. 71-72.

²² Osterberg, N.T. 83; Tarquinio, N.T. 70-72. This sentiment was echoed by other witnesses as well. E.g., Daniel Wolff, N.T. 79; Stefan Ciardullo, N.T. 187; Julie Soberg. 162.

²³ Soberg, N.T. 162; see also Ciardullo, N.T. 187.

²⁴ Patricia Yakkey, N.T. 116; Hansen, N.T. 75; Hudgens, N.T. 112-13; Strub, N.T. 101; Wylie, N.T. 159; Scheibner, N.T. 98; Ewbank, N.T. 178; Sutton, N.T. 120; Provenzano, N.T. 96.

²⁵ E.g., Aschoff, N.T. 150; Pfaeffle, N.T. 142; Hansen, N.T. 75; Alvarez, N.T. 181; Cole, N.T. 110-11; Sutton, N.T. 120; Scheibner, N.T. 98; Dooley, N.T. 87; Ewbank, N.T. 177; Weber, N.T. 91.

²⁶ Hansen, N.T. 75.

²⁷ E.g. Soberg, N.T. 161-62.

²⁸ Ciardullo, N.T. 186-87.

²⁹ Sutton; Cole.

³⁰ Wolff, N.T. 77-78.

Many witnesses questioned the timing of the rate increase request during a pandemic.³¹ Others stated that it was unfair for the company to request an increase when the community is already struggling economically.³² Some witnesses observed that the demand for utility service had actually increased during the pandemic because more people were working from home.³³

Complainant Charlie Gillinder testified at length, and his testimony was adopted by many witnesses. Specifically, he questioned the expression of the electricity rates charged to customers, compared to the rates that were included in the notice of the rate increase that was sent to customers.³⁴ He noted that customer bills will increase by more than just the distribution rates.³⁵

Some witnesses testified that in their view that the Commission should not approve any rate increase for the company.³⁶ One witness testified that infrastructure improvements should be paid for by investors, not customers.³⁷ Others recognized that a rate increase may be necessary, but testified that it should be more gradual or delayed.³⁸

Mr. Gillinder also argued that ratepayers were unable to reduce their bills by shopping for supply because there were no suppliers offering service in the PCLP territory.³⁹

³¹ Aschoff, N.T. 150; Pfaeffle, N.T. 142; Ewbank, N.T. 178; Soberg, N.T. 162; Joseph Dooley, N.T. 86; Fred Weber, N.T. 91; Adam Cole, N.T. 110-11; Ciardullo, N.T. 185; Sarah Sutton, N.T. 121; Anthony Provenzano, N.T. 95; John Ciccolella, N.T. 106; Antoinette Alvarez, N.T. 181; Lisa Scheibner, N.T. 98.

³² E.g., Osterberg, N.T. 83-84; Wylie, N.T. 159.

³³ E.g., Provenzano, N.T. 95.

³⁴ N.T. 54-56.

³⁵ N.T. 57-58.

³⁶ E.g. Provenzano, N.T. 96.

³⁷ Ciccolella, N.T. 107.

³⁸ Hendricks, N.T. 156; Soberg, N.T. 164; Weber, Osterberg, N.T. 84; Ciardullo, N.T. 187.

³⁹ N.T. 57.

Complainant Dawn Metzger also testified that she was frustrated that she had to give up her supplier when PCLP was acquired by Corning.⁴⁰

A concerning number of witnesses complained that the electricity service provided by PCLP was unreliable.⁴¹ Many told of frequent outages,⁴² and noted that many consumers had purchased generators to ensure that they had power.⁴³ Several also complained that it was difficult to get information from PCLP regarding the duration of outages.⁴⁴ Granger Greenbaum stated that if rates increase, PCLP should be required to improve service.⁴⁵

DESCRIPTION OF THE JOINT SETTLEMENT PETITIONS

The Revenue Settlement, filed on April 9, 2021, includes the terms agreed upon by the Active Parties, as well as Depreciation/Amortization Rates (Appendix A); the statements in support of the Joint Petitioners (Appendices B-E); and Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs (Appendix F).

The Active Parties agreed to the following settlement terms:⁴⁶

16. Under the terms of the Partial Settlement. Pike (Electric) will be permitted to establish rates which will produce an overall increase in annual electric distribution operating revenues of approximately \$1.4 million, an increase of 13.8% in overall electric revenues, and 26.9% in electric distribution revenues.

⁴⁰ N.T. 167-70. *See also* Hendricks, N.T. 154.

⁴¹ PCLP responded in the rebuttal testimony of Steven L. Grandinali. (PCLP St. 3-R).

⁴² Pfaeffle, N.T. 141-44; Dooley, N.T. 88; Hudgens, N.T. 113; Alvarez, N.T. 182; Hendricks, N.T. 154-55; Yakkey, N.T. 116; Ewbank, N.T. 178; Metzger, N.T. 167; Strub, N.T. 104.

⁴³ E.g., Strub, N.T. 104; Hudgens, N.T. 113.

⁴⁴ Hendricks, N.T. 154.

⁴⁵ N.T. 173.

⁴⁶ These terms are stated verbatim and for ease of reference retain the same numbers as they appear in the Settlement.

17. Rates will be effective on one day's notice for service rendered no sooner than July 28, 2021.

18. In addition to, and in consideration of, the agreed-upon overall increase in operating revenues, Joint Petitioners agree to the terms and conditions set forth as follows:

a. Effective Date - The rates reflecting the increase set forth above will become effective no sooner than July 28, 2021. Pike (Electric) agrees that it will not file for a Distribution System Improvement Charge (“DSIC”) with an effective date that is prior to July 1, 2022. Pike (Electric) is allowed to file a tariff or tariff supplement proposing changes in its State Tax Adjustment Surcharge, System Benefits Charge, Tax Cuts and Jobs Act Surcharge, Default Service rates, including the Market Price for Electric Supply, Electric Supply Adjustment Charge, and any successor charges. In addition, Pike (Electric) is allowed to file for the recovery and / or refund of costs resulting from legislative changes and / or mandates (e.g., changes to federal income tax rates). Nothing in this paragraph is intended to limit Pike (Electric) rights under Section 1308(e) (governing extraordinary rate relief).

b. Revenue Allocation/Rate Structure/Rate Design — Reserved for Litigation

c. Customer Charge – Joint Petitioners have agreed to the following Customer Charges:

SC1 – Residential Heating & Non-Heating: \$8.80

SC2 – Small Commercial & Industrial (Secondary): \$17.26

SC2 - Large Commercial & Industrial (Primary): \$140.00

d. Other Tariff Changes – Pike (Electric) introduced eight new LED Street light and two LED flood light luminaries and the associated charges for SC-3, Municipal Street lights. Induction Street light and Incandescent flood light luminaries and the associated charges for SC-3, municipal street lights have been eliminated. The Company also introduced four new LED lighting and two LED flood lighting luminaries and the associated charges for SC-4, private lighting. Mercury Vapor lighting luminaries and the associated charges for SC-4, private lighting have been eliminated.

- e. Storm Expense - Deferred storm expenses of \$977,630 will be amortized over five-years at the rate of \$195,526 per annum.
- f. Tax Cuts and Jobs Act (“TCJA”) Surcharge Credit – The Company will pass back TCJA credits deferred during the current and stub periods of approximately \$180,700 on June 30, 2021, using the current TCJA temporary surcharge credit mechanism over a period of six-months with interest using the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest Protection Law (41. P.S. §§ 101, et seq.).
- g. Deferred TCJA “Protected” Balances – The Protected TCJA credit balance of \$110,645 as of June 30, 2021 is reflected as a rate base deduction and the unamortized balance will continue to reduce rate base in future proceedings until the balance is fully returned to ratepayers. The Company will amortize the Protected TCJA balance over forty-years as a credit to expense at the rate of \$2,766 per annum.
- h. Deferred TCJA “Non-Protected” Balances – The Non-Protected TCJA credit balance of \$73,270 as of June 30, 2021 is reflected as a rate base deduction and the unamortized balance will continue to reduce rate base in future proceedings until the balance is fully returned to ratepayers. The Company will amortize the Non-Protected TCJA balance over five-years as a credit to expense at the rate of \$14,654 per annum.
- i. DSIC Surcharge – LTIP Projects approved by the PAPUC in Docket No. P-2020-3022285 will not include plant claimed in this rate case for the July 1, 2021 through December 31, 2021 period of \$275,000 and all plant placed in service prior to June 30, 2021. The Company will be permitted to include the Civil portion of the 34.5 Kv underground project estimated at \$450,000 in the DSIC after that project is placed into service. For purposes of calculating its DSIC, Pike (Electric) shall use the equity return rate for electric utilities contained in the Commission’s most recent Quarterly Report on the Earnings of Jurisdictional Utilities as updated each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly

Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

j. Depreciation Rates – No party objected to the Company’s proposed plant depreciation and amortization rates. The depreciation / amortization rates are contained in Appendix A.

* * *

21. Joint Petitioners agree that adoption and approval of this Petition for Partial Settlement by the ALJ and the Commission is in the public interest. While the revenue allocation of the \$1,400,000 settlement revenue requirement was not settled, the Joint Petitioners have settled on customer charges, and the comparison of those impacts are provided below:

Pike County Light & Power Company					
Electric Rate Case Filing					
Docket No. R-2020-3022135					
		<u>As Filed</u>		<u>Proposed Settlement</u>	
<u>Customer Charge</u>	<u>Present Rates</u>	<u>Amount</u>	<u>% Increase</u>	<u>Amount</u>	<u>% Increase</u>
SC1-Residential Heating & Non-Heating	\$8.50	\$11.70	37.6%	\$8.80	3.5%
SC2- Small Commercial & Industrial (Secondary)	\$13.60	\$18.73	37.7%	\$17.26	26.9%
SC2- Large Commercial & Industrial (Primary)	\$110.90	\$152.00	37.1%	\$140.00	26.2%

22. This Partial Settlement provides for a sound and reasonable revenue requirement and appropriately balances the interests of Pike (Electric) and its customers. In addition, adoption and approval of this Petition for Partial Settlement will avoid the need for the evidentiary hearings and the cross-examination of witnesses, for briefing, and for continued litigation of the settled issues, thereby eliminating substantial costs.

23. This Petition for Partial Settlement arises from extensive discovery, testimony and discussions and reflects compromises by all sides. It is being proposed to partially settle the instant case. Accordingly, this Petition for Partial Settlement is made without any admission against, or prejudice to, any positions which any Joint Petitioner might adopt during any subsequent litigation of this proceeding (should this Petition for Partial Settlement be rejected or modified), or in any other proceeding.

24. If the Commission withholds approval of this Petition for Partial Settlement as to any of the terms and conditions, or alters any of the terms and conditions, any Joint Petitioner may withdraw from this settlement upon written notice of its intent to the Commission and the remaining parties within three (3) business days of the date of entry of the Commission's Order and may resume with the litigation of this proceeding within ten days of the entry of the Order making any such modifications.

25. Joint Petitioners agree that Commission approval of this Petition for Partial Settlement without modification shall be considered to have the same effect as full litigation of the instant proceeding resulting in the establishment of rates that are Commission-made rates.

26. In the event that the Commission does not approve this Petition for Partial Settlement, the Joint Petitioners reserve their respective rights to resume litigation. If the ALJ, in her Recommended Decision, recommends that the Commission adopt this Petition for Partial Settlement as herein proposed, Joint Petitioners agree to waive the filing of Exceptions on the matters settled in this Petition. However, Joint Petitioners do not waive their rights to file Exceptions with respect to the litigated issue on Rate Structure and Design, any additional matters dealt with, or any modifications to the terms and conditions of this Petition for Partial Settlement recommended by the ALJ in her Recommended Decision.

27. The Joint Petitioners recognize that this Petition for Partial Settlement does not bind formal complainants who have not joined herein.

28. Pike (Electric), I&E, OCA, and OSBA have attached to this Petition for Partial Settlement, as Appendices "B", "C", "D", and "E", respectively, Statements of Support setting forth the bases upon which they believe the Partial Settlement is fair, just and reasonable and is, therefore, in the public interest.

29. In compliance with the ALJ’s March 10, 2021 Order at Ordering paragraph 6, the parties have attached to this Petition for Partial Settlement Appendix F, the proposed finding of fact conclusions of law, and ordering paragraphs.

30. The Joint Petitioners agree that this Partial Settlement shall not constitute or be cited as controlling precedent in this or any other jurisdiction.

The Rate Design Settlement, filed on April 16, 2021, included a Tariff Supplement (Appendix A); Proof of Revenues (Appendix B); statements in support (Appendices C-E) and supplemental proposed findings of fact, conclusions of law and ordering paragraphs (Appendix F).

The Rate Design Settlement included the following terms and conditions:⁴⁷

9. Under the terms of the Rate Structure Settlement, Pike (Electric), I&E, and the OCA have agreed to a just and reasonable rate structure and rate design which will allow the Pike (Electric) to recover the Jointly Settled, black box revenue requirement of \$1,400,000 as described in the April 9, 2021 petition for partial settlement. These rates, as determined in accordance with the attached proof of revenues (Appendix B) and tariff supplement (Appendix A), will be effective on one day’s notice for service rendered no sooner than July 28, 2021, if approved by the Commission.

10. The table below reflects the increase in delivery revenues by class from present rates as proposed by the Rate Structure Petitioners:

Service Class	Type of Service	Annual Bills	Total Sales (kWh)	Delivery Revenue at:		Increase:	
				Present Rates	Proposed Rates	Rev Change	Percent Change
1	Residential Service	45,756	30,847,400	2,682,831	3,263,225	580,394	21.6%
2	General Secondary - Demand	9,215	30,487,565	1,988,600	2,670,784	682,184	34.3%
2	General Secondary - Non-Demand	2,185	1,161,935	71,700	99,412	27,711	38.6%

⁴⁷ These terms are stated verbatim and for ease of reference retain the same numbers as they appear in the Settlement.

2	General Primary Service	96	10,129,300	350,721	435,924	85,203	24.3%
3	Municipal Street Lighting	108	211,700	86,228	110,717	24,489	28.4%
4	Private Area Lighting	960	155,200	34,425	34,425	0	0.0%
Total		58,320	72,993,100	5,214,505	6,614,486	1,399,981	26.8%

11. In addition to, and in consideration of, the agreed-upon provisions of the April 9, 2021 Joint Petition for Partial Settlement, the Rate Structure Petitioners agree to the additional terms and conditions set forth as follows:

a. Rate Structure/Rate Design — Rate Structure Petitioners agree to the distribution of revenue among customer classes in this Rate Structure Settlement as set forth in the attached Proof of Revenues at Appendix B.

12. A comparison of the total monthly bill impact for residential and commercial rate classes, comparing present rates, as filed rates, and settlement rates is provided below:

Pike County & Power Company					
Electric Rate Case Filing					
Docket No. R-2020-3022135					
<u>Customer Charge</u>	<u>Present Rates</u>	<u>As Filed</u>		<u>Proposed Settlement</u>	
		<u>Amount</u>	<u>% Increase</u>	<u>Amount</u>	<u>% Increase</u>
SC-1 Residential Heating & Non-heating	\$8.50	\$11.70	37.6%	\$8.80	3.5%
SC-2 Small Commercial & Industrial (Secondary)	\$13.60	\$18.73	37.7%	\$17.26	26.9%
SC-Large Commercial & Industrial (Primary)	\$110.90	\$152.00	37.1%	\$140.00	26.2%
<u>Average Customer Bill</u>					
SC1-Residential (674 Kwh)	\$103.90	\$121.90	17.3%	\$116.49	12.1%
SC2- Secondary -Demand (3,308 Kwh)	\$450.61	\$552.89	22.7%	\$528.52	17.3%

SC2- Second- Non-Demand (532 Kwh)	\$70.46	\$87.59	24.3%	\$83.81	18.9%
SC2 - Primary (105,514 Kwh)	\$9,958.27	\$11,225.55	12.7%	\$10,892.36	9.4%
SC3- Muni Street Lighting 1,960 (Kwh)	\$869.53	\$1,250.09	43.8%	\$1,171.80	34.8%
SC4- Private Lighting (162 Kwh)	\$45.06	\$51.35	14.0%	\$45.06	0.0%

13. This Rate Structure Settlement provides for a sound and reasonable rate structure and rate design within the range of positions of the Rate Structure Petitioners testimony and evidence in this matter. The rate structure and rate design proposed in Appendix A and B is based within the range of the varying positions of the parties in this proceeding to create a rate structure under black box revenue requirement of \$1,400,000 previously agreed to by the Statutory Advocates and the Company. The Rate Structure Petitioners agree that adoption and approval of this Joint Petition for Settlement on Rates Structure and Rate Design by the ALJ and the Commission, in conjunction with the terms agreed to unanimously by the statutory advocates and the company in the April 9, 2021 black box settlement, is in the public interest.

14. Under this Rate Structure Settlement, the total monthly bill for a typical residential customer using 674 kilowatt hours (kWh) per month will increase from \$103.90 to \$116.49, or by approximately 12.1%. The distribution portion of the bill will increase from \$58.62 to \$71.30, or by approximately 21.6%. Similarly, the typical bill for commercial demand customers (SC2-Secondary - Demand) using 3,308 kWh per month will increase from \$450.61 to \$528.52, or approximately 17.3%. Finally, the typical bill for commercial non-demand customer (SC2-Secondary – Non-Demand) using 532 kWh per month will increase from \$70.46 to \$83.81, or approximately 18.9%.

15. This Rate Structure Settlement arises from extensive discovery, testimony and discussions and reflects compromises by all sides. It is being proposed by the Rate Structure Petitioners to resolve the remaining unsettled issues in the rate case--rate structure and rate design. Accordingly, this Joint Petition for Settlement on Rate Structure and Rate Design is made without any admission against, or prejudice to, any

positions which any Rate Structure Petitioner might adopt during any subsequent litigation of this proceeding (should this Petition for Settlement be rejected or modified), or in any other proceeding.

16. If the Commission withholds approval of this Joint Petition for Settlement on Rate Structure as to any of the terms and conditions, or alters any of the terms and conditions, any Rate Structure Petitioner may withdraw from this Rate Structure Settlement upon written notice of its intent to the Commission and the remaining parties within three (3) business days of the date of entry of the Commission's Order and may resume with the litigation of this proceeding within ten days of the entry of the Order making any such modifications.

17. Rate Structure Petitioners agree that Commission approval of this Petition for Settlement without modification, in conjunction with the April 9, 2021 Joint Petition for Partial settlement, shall be considered to have the same effect as full litigation of the instant proceeding resulting in the establishment of rates that are Commission-made rates.

18. In the event that the Commission does not approve this Joint Petition for Settlement on Rate Structure and Rate Design by Pike, I&E, and the OCA in conjunction with the Joint Petition filed April 9, 2021, the Rate Structure Petitioners reserve their respective rights to resume litigation. If the ALJ, in her Recommended Decision, recommends that the Commission adopt this Petition for Settlement on Rate Structure and Rate Design as herein proposed, the Rate Structure Petitioners agree to waive the filing of Exceptions on the matters settled in this Petition for Settlement on Rate Structure. However, if the ALJ in her Recommended Decision, recommends that the Commission adopt a different rate structure and rate design, the Rate Structure Petitioners do not waive their right to file Exceptions to the Recommended Decision. The Rate Structure Petitioners do not waive their rights to file Reply Exceptions to the Office of Small Business Advocate's Exceptions, if any, with respect to Rate Structure and Design outcome of the Recommended Decision, as well as any additional matters dealt with, or any modifications to the terms and conditions of this Petition for Settlement on Rate Structure recommended by the ALJ in her Recommended Decision.

19. The Rate Structure Petitioners recognize that this Petition for Settlement does not bind formal complainants who have not joined herein.

* * *

22. The Rate Structure Petitioners agree that this Settlement shall not constitute or be cited as controlling precedent in this or any other jurisdiction.

LEGAL STANDARDS

The purpose of this investigation is to establish rates for PCLP’s customers that are just and reasonable pursuant to Section 1301 of the Public Utility Code.⁴⁸ Section 1301 (a) of the Code requires “[e]very rate made, demanded, or received by any public utility ... shall be just and reasonable, and in conformity with [the] regulations or orders of the [C]ommission.”⁴⁹ Pursuant to the just and reasonable standard, a utility may obtain “a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers [,] as well as a reasonable rate of return on its investment.”⁵⁰ There is no single way to arrive at just and reasonable rates, and the Commission has broad discretion in determining whether rates are reasonable and to decide what factors it will consider in setting or evaluating a utility’s rates.⁵¹

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.⁵² In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in

⁴⁸ 66 Pa.C.S. § 1301.

⁴⁹ 66 Pa.C.S. § 1301(a).

⁵⁰ *City of Lancaster Sewer Fund v. Pa. Pub. Util. Comm’n*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002).

⁵¹ *Pa. Pub. Util. Comm’n v. City of Bethlehem- Water Dep’t*, Docket No. R-2020-3020256 (Opinion and Order entered April 15, 2021) (*City of Bethlehem*) (citing *Popowsky v. Pa. Pub. Util. Comm’n*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996)).

⁵² *Pa. Gas & Water Co. v. Pa. Pub. Util. Comm’n*, 341 A.2d 239 (Pa. Cmwlth. 1975).

Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n of W. Va.,⁵³ and *Fed. Power Comm'n v. Hope Nat. Gas Co.*⁵⁴ 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.^[55]

The burden of proving that every element of a rate increase request is just and reasonable rests with the public utility.⁵⁶ However, in proving that its proposed rates are just and reasonable, a public utility need not defend every claim it has made in its filing, even those which no other party has question.⁵⁷

The Commission encourages parties in contested on-the-record proceedings to settle cases.⁵⁸ Settlements eliminate the time, effort, and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate

⁵³ 262 U.S. at 679 (1923).

⁵⁴ 320 U.S. at 591 (1944).

⁵⁵ 262 U.S. at 692-93 (1923).

⁵⁶ 66 Pa.C.S. § 315(a).

⁵⁷ *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, Docket R-2020-3020256 (Opinion and Order entered April 15, 2021)(*City of Bethlehem*), at p. 10.

⁵⁸ *See* 52 Pa.Code § 5.231.

courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails.

For a unanimous settlement, the Joint Petitioners share the burden of proving that the terms and conditions of the Settlement are supported by substantial evidence and are in the public interest.⁵⁹ When a settlement is non-unanimous, the standards for reviewing the terms are the same as those for deciding a fully contested case.⁶⁰

DISCUSSION OF THE SETTLEMENTS

PCLP serves approximately 4,800 electric customers, of which 960 are commercial, 3,810 are residential and 90 are lighting.⁶¹ In 2016, Corning Natural Gas Holding Company acquired PCLP from Orange and Rockland Utilities.⁶² PCLP has been operating under electric rates that went into effect in September 2014.⁶³ PCLP now requests a rate increase in order to meet increased costs, particularly related to plant additions, including some projects identified in PCLP's Long Term Infrastructure Improvement Plan, which was recently approved by the Commission.⁶⁴ On October 26, 2020, Pike (Electric) filed with the Commission Supplement No. 82 to Tariff Electric - Pa. P.U.C. No. 8 to become effective December 28, 2020. Supplement No. 82 to Tariff Electric - PA P.U.C. No. 8 contains proposed changes in Pike (Electric)'s rates, rules, and regulations and sets forth a request to adjust current electric rates in

⁵⁹ *City of Bethlehem*, at p. 13.

⁶⁰ *City of Bethlehem*, at p. 31 (citing Joint Application of W. Penn Power Con d/b/a Allegheny Power, Trans-Allegheny Interstate Line Co. & FirstEnergy Corp., Docket Nos. A 2010 2176520 and A-2010-2176732 (Order entered March 8, 2011); see also Pa. Pub. Util. Comm'n v. Pa. Am. Water Co., Docket No. R-2020-3019369 (Opinion and Order entered February 25, 2021), at p. 40.

⁶¹ PCLP, St. 3 at p. 2.

⁶² PCLP, St. 2 at 5. See Joint Application of Pike Cnty. Light & Power Co., Buyer Corning Nat. Gas Holding Corp., Docket A-2015-2517036 (Order entered August 11, 2016).

⁶³ PCLP, St. 2 at 9; *See Pa. Pub. Util. Comm'n v. Pike Cnty Light & Power (Electric)*, Docket No. R-2013-2397237 (Opinion and Order entered September 11, 2014).

⁶⁴ PCLP, St. 2 at 9.; *Petition of Pike Cnty. Co. for Approval of its Elec. Long-Term Infrastructure Improvement Plan*, Docket No. P-2020-3022285 (Opinion and Order entered February 25, 2021).

order to produce additional distribution revenues of \$1,933,600 per year, an increase of approximately 19.4% in overall electric revenues (including an estimate of electric supply costs for full service and retail access customers), or 37.0% in electric distribution revenues, based on the twelve months ended June 30, 2021.

The primary element of the Revenue Settlement is the agreement of PCLP, I&E, OCA and OSBA to the overall revenue requirement and to customers charges.⁶⁵

A. Revenue Requirement

PCLP, I&E, OCA and OSBA (Joint Petitioners) all agreed to an overall increase in annual electric distribution operating revenues of approximately \$1.4 million, an increase of 13.8% in overall electric revenues, and 26.9% in electric distribution revenues. This compromise represents approximately a 28% reduction in overall electric revenue requested by PCLP in its original filing.

PCLP, in support of the Revenue Settlement, assures that agreed-upon rate and revenue levels outlined in the Petition for Partial Settlement will allow Pike to (a) produce an adequate return on PCLP's invested capital that is dedicated to the service of PCLP's customers, (b) provide sufficient operating revenues to meet operating expenses, taxes and other charges, (c) enable PCLP to maintain its creditworthiness at a level sufficient to raise capital necessary to perform its obligations to provide safe, adequate and proper service to its customers, and (d) provide a reasonable rate of return on PCLP's investment in electric property.

PCLP goes on to explain that expected revenue will permit the company to adequately address system reliability and other operational issues, some of which were raised by witnesses in the public input hearing. Specifically, Pike notes that in rebuttal testimony of Steven Grandinali, the general trend of service interruptions for Pike's electric service, has been

⁶⁵ The terms relating to customer charges are discussed more fully in the discussion of the Rate Design Settlement.

decreasing since being acquired from Orange and Rockland Utilities.⁶⁶ According to Mr. Grandinali, the company continues to place system reliability as a high priority and has made significant efforts in its vegetation management program, pole replacements, system hardening, and distribution projects towards that goal. According to PCLP, the agreed to revenue requirement increase will allow Pike to continue to improve its system reliability to the benefit of its customers and address many of the concerns raised at the public input hearings.

I&E states that through discovery and negotiation, I&E is satisfied that the agreed revenue increase balances the interests of PCLP and its customers. According to I&E, Pike will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the Pike's initial request. Mitigation of the level of the rate increase benefits ratepayers and results in "just and reasonable" rates in accordance with the Public Utility Code, regulatory standards, and governing case law.

OCA agrees that the settled revenue increase is reasonable, noting that Pike's original filing did not contain testimony from a cost of capital witness and the initial revenue request was calculated using a 9.75% return on common equity, which is consistent with fully litigated outcomes. OCA observes that based on the OCA's analysis of PCLP's filing, and discovery responses, the amount of the rate increase under the proposed Revenue Settlement represents a result that is within the range of likely outcomes in the event of full litigation of the case. The Settlement as a whole yields a result that is reasonable and in the public interest. This increase further represents a difficult but reasonable compromise given the extraordinary circumstances resulting from the COVID-19 pandemic, in conjunction with the period since Pike's last base rate proceeding.

B. Other Revenue Settlement Terms

The Revenue Settlement also provides for the resolution of disputes regarding the treatment of Tax Cuts and Jobs Act (TCJA) surcharge credits and balances, DSIC petition issues, and the treatment of storm expenses.

⁶⁶ PCLP St. 3-R at 2-6.

I&E noted that the Joint Petitioners' agreement to amortize deferred storm expenses is in line with the recommendation of its expert witness, John Zalesky. In his direct written testimony, Mr. Zalesky explained that PCLP's total storm expense to be amortized for Hurricane Riley was acceptable. He recommended a five-year amortization period which is consistent with the amortization period agreed to in the settlement of PCLP's last rate case.⁶⁷ Paragraph 18(e) of the Revenue Settlement is consistent with this testimony.

I&E also specifically supports the treatment of TCJA surcharge credits and deferred balances. According to I&E, the pass back of tax savings to ratepayers is fair because ratepayers were originally funding the tax at a higher rate. The treatment of the deferred balances as required by the Revenue Settlement is appropriate because reflecting the proper increases or decreases to rate base for the remaining TCJA balances allows for the reflection of accurate rate base balances until the credits are fully extinguished. OCA agrees with I&E because approval of these provisions ensure the reasonable and stable treatment of these costs in this and future proceedings.

In its statement in support, OCA points to the introduction of LED lighting into PCLP's tariff. Although OCA did not provide testimony on this issue, according to OCA, this tariff represents the value of a reasonable update in recognition of technological changes to lighting and that this new tariff is in the public interest.

C. Revenue Requirement Recommendation

The revenue requirement for a public utility is calculated from determining the allowable expenses incurred by the utility, plus a return on investment. The "return on investment" is calculated by multiplying the overall cost of capital to the company against the utility's rate base.⁶⁸

⁶⁷ I&E St. 1 at p. 12; I&E St. 1-SR at pp.8-9.

⁶⁸ See generally, James H. Cawley and Norman J. Kennard, *A Guide to Utility Ratemaking*, p. 102, (Public Utility Commission 2018).

PCLP, I&E and OCA all presented written testimony on each of these topics.⁶⁹ Each proposed adjustment and counter adjustment were supported by expert testimony and accompanying tables and exhibits. With the exception of the specific terms in the Revenue Settlement regarding the amortization period for stormwater expenses and the exclusion of projected plant additions to rate base beyond the FTY, the specific rate base, expenses and rate of return are “in the black box.” In the Revenue Settlement, the Active Parties “agreed to disagree” on specific adjustments advocated by each party in favor reaching a settlement. The Commission has recognized⁷⁰ that “black box” settlements can serve an important purpose in reaching consensus in rate cases:

We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company’s revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company’s cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.

The Commission has recently approved a number of base rate settlements, finding that the fact that a settled revenue increase which is less than the revenue increase requested by the utility is in the public interest.⁷¹ Although the Active Parties provided testimony regarding the impact of the Covid-19 Pandemic on customers, in contrast to other base rates recently considered by the Commission,⁷² none of the Joint Petitioners offered evidence or argued that no increase in revenue was justified. Instead the PCLP, I&E and OCA each submitted testimony

⁶⁹ OSBA did not present evidence on revenue issues, but is a signatory to the Revenue Settlement.

⁷⁰ *Pa. Pub. Util. Comm’n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Order entered December 19, 2013), at p. 28 (citations omitted).

⁷¹ E.g., *City of Bethlehem*.

⁷² E.g., *Pa. Pub. Util. Comm’n v. Columbia Gas of Pa., Inc.*, R-2020-3018835 (Opinion and Order entered February 19, 2021)(Columbia).

and exhibits substantiating claims supporting revenue increase proposals ranging from \$1.9 million originally requested by PCLP, to \$1.2 million proposed by OCA.⁷³ The \$1.4 million revenue increase is adequately supported by evidence in the record and constitutes a reasonable compromise of the litigation positions of the Active Parties.

D. Revenue Allocation and Rate Design

The Commission recently summarized the general principles of the development of a rate structure for a utility, once the revenue requirement is determined:

When a utility files for a rate increase and the proposed increase exceeds \$1 million, the utility must include with its filing an allocated class cost-of-service study (ACCOSS or ACCOS Study) in which it assigns to each customer class a rate, based upon operating costs that it incurred in providing that service. 52 Pa. Code § 53.53; *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1015 (Pa. Cmwlth. 2006) (Lloyd). Cost allocation studies require a considerable amount of judgment and are described as more of an accounting/engineering art rather than a science. *Application of Metropolitan Edison Co.*, R-00974008 (Order dated June 30, 1998); *Pa. PUC v. Pennsylvania Power & Light Co.*, 55 PUR 4th 185 (Order dated Aug. 19, 1983). Public utility rates should enable the utility to recover its cost of service^[74] and should allocate this cost among its customers. These rates are required by statute to be just and reasonable and non-discriminatory. 66 Pa.C.S. §§ 1301, 1304. ^[75]

The Active Parties did not reach a unanimous agreement on the allocation of the revenue increase among PCLP's customer classes. However, in the Revenue Settlement, they did reach an agreement regarding the customer charges.

⁷³ OCA St. 1-SR.

⁷⁴ In this context, "cost of service" refers to the utilities revenue requirement. See James H. Cawley and Norman J. Kennard, *A Guide to Utility Ratemaking*, p. 141, n.346 (Public Utility Commission 2018).

⁷⁵ *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, R-2020-3018835 (Opinion and Order entered February 19, 2021)(*Columbia*), at 186-87.

1. Cost of Service Studies and Revenue Allocation

In its original filing, PCLP included cost of service studies (COSS) utilizing a customer component minimum system approach. COSS results were provided with PCLP's base rate filing as Exhibits E-6 (Historical test year 12 months ended June 30, 2020) and Exhibit E-7 (Future test year 12 months ended June 30, 2021). Through discovery, PCLP made adjustments to the COSS.⁷⁶ The Electric Rate Panel filed the revised Exhibit E-6 (Exhibit E-6 Rev) and Exhibit E-7 (Exhibit E-7 Rev) with their rebuttal testimony. PCLP prepared an additional adjusted COSS study for Exhibit E-7 in response to discovery from I&E, replicating the level of detail as was provided for Exhibit E-6.⁷⁷

Pike's expert witnesses explained that the minimum system approach was included in the COS for two main reasons.⁷⁸ The first reason is to provide continuity with PCLP's COSS included with its last filing and the second reason is to recognize that the smaller sized secondary lines are influenced considerably by population density as opposed to the larger primary lines. Primary circuits consist of both three phase and single phase facilities. A large portion of primary is single phase and many of the SC2 customers that are three-phase cannot be served by single phase facilities.

I&E generally agreed with the method used by Pike to assign costs to each rate class, but took issue with the level of detail provided in PCLP's studies.⁷⁹ The COSS provided by PCLP did not reflect the rate of return and relative rate of return under proposed rates. I&E witness Esyan Sakaya conducted an analysis of the relative rates of return under proposed rates

⁷⁶ PCLP Statement No. 1-R at 2.

⁷⁷ *See* PCLP Statement No. 1-R at 2.

⁷⁸ PCLP Statement No. 1 at 12-14.

⁷⁹ In testimony, I&E's expert witness recommended that as part of its next base rate filing PCLP be required to provide a COSS showing forecasted revenue, expenses, taxes, net income, rate base, rate of return, and relative rate of return under proposed rates by class. I&E St. 3 at p. 24; I&E St. 3-SR at 14. While the recommendation seems sensible, it was not included in any of the Settlements.

for the different rate classes.⁸⁰ Witness Sakaya developed a schedule calculating the relative rates of return based upon revenue, expenses, taxes, net income, and rate base by class.⁸¹ Using PCLP's updated COSS Witness Sakaya determined that the relative rate of return for the residential class was 1.0, the relative rate of return for the Small Business Class was 0.99, and the relative rate of return for the Large Commercial Class was 0.95.⁸² While the rates of return for the Small Business and Large Commercial classes were slightly under the cost to serve, Witness Sakaya accepted PCLP's COSS as the results were only slightly below the relative rate of return.⁸³

OCA's expert, Dr. Karl Pavlovic, disputed the classification of certain functionalized electric costs. In his view, PCLP's FERC Accounts 364-368⁸⁴ should have been classified as wholly demand-related with no customer-related component, consistent with the COSS classification of similar FERC Accounts 360-362, which were functionalized as only demand-related.⁸⁵ According to Dr. Pavlovic, costs in Accounts 364-368 do not vary or fluctuate with the number of customers on Pike's system.⁸⁶

OSBA's expert, Robert Knecht, was critical of all the COSSs. According to Mr. Knecht, the most contentious issue in electric distribution company cost allocation debates involves the issue of classifying secondary voltage and primary voltage distribution equipment into demand-related and customer-related categories.⁸⁷ PCLP's COSS uses a "minimum system"

⁸⁰ I&E St. No. 3, p. 22.

⁸¹ I&E St. No. 3, p. 22, and I&E Exh. No. 3, Sch. 5.

⁸² I&E St. No. 3, p. 23.

⁸³ I&E St. No. 3, p. 31.

⁸⁴ FERC Accounts 364 (poles, towers & fixtures), 365 (overhead conductors & devices), 366 (underground conduit), 367 (underground conductors & devices) and 368 (line transformers). See OCA St. 2 at p. 13-14 (citing NARUC Electric Utility Cost Allocation Manual (NARUC Electric Manual), 1992, pp. 90-92).

⁸⁵ OCA St. 2 at 13-17.

⁸⁶ OCA St. 2 at 14-15 (footnotes omitted).

⁸⁷ OSBA Statement No. 1 at 8.

approach to classify secondary voltage distribution plant into customer and demand components, but simply assumes that all primary voltage distribution equipment is demand-related.⁸⁸ Mr. Knecht went on to explain that because primary voltage distribution equipment is not classified into customer and demand components, PCLP's treatment of these costs is inconsistent with the NARUC Electric Utility Cost Allocation Manual and established Commission precedent.

Noting that detailed system information for classifying primary voltage distribution equipment was not available, Mr. Knecht recommended that a "conservative" adjustment be made to classify 30 percent of primary distribution plant as customer-related, a value well below that used by other Pennsylvania EDCs for primary system costs.⁸⁹ According to OSBA, a conservative judgmental adjustment is far superior to PCLP's approach of willfully ignoring Commission precedent.

Next, Mr. Knecht explained that PCLP treats costs related to service drops as demand-related, a method that is not consistent with established cost allocation practice. Mr. Knecht observed that most service line costs are not causally related to peak demand, as evidenced by the PPL Electric model which indicates service lines are 98.8 percent customer-related and only 1.2 percent demand-related, and the FirstEnergy Companies model which treats service lines as entirely customer-related.⁹⁰ Again, being conservative, Mr. Knecht proposed that these costs be treated as 70 percent customer-related and 30 percent demand-related.

Third, Mr. Knecht highlighted what he viewed as flaws in PCLP's development of its meter plant allocator, not least of which is that the labor cost associated with meters installation, and consistent with normal utility practice and cost causation considerations, Mr. Knecht allocated customer service and sales O&M expense based on customer count.

⁸⁸ OSBA Statement No. 1 at 12.

⁸⁹ OSBA Statement No. 1.

⁹⁰ OSBA Statement No. 1 at 16-17.

In their briefs filed on April 5, 2021, each of the Active Parties, consistent with the positions expressed by their experts, presented a proposed allocation of revenue for each rate class, based on the revenue increase resolved in the Revenue Settlement. Following further discussion, PCLP, I&E and OCA (Rate Design Petitioners) were able to agree on a revenue allocation as set forth in the Rate Design Settlement. The Rate Design Settlement, like the Revenue Settlement, is a black box settlement. The Rate Design Petitioners did not agree on any one cost of service study. Rather, according to the settling parties, the resulting rate class revenue allocation provided in the Rate Design Settlement is therefore the product of settlement and negotiation.

PCLP represents that the Rate Design Settlement represents a fair and balanced black box approach to implement the revenue requirement established by the Revenue Settlement. In particular, Paragraph 12 of the Rate Structure and Rate Design Settlement provides a rate comparison for all customers based on the average customer bill. The result of the Rate Structure Petitioners' settlement is that the average residential customer will see an estimated 12.1% increase, or roughly \$12.59 increase in their monthly electricity costs. Similarly, the average commercial – demand (SC2-Secondary - Demand) customer will see an estimated 17.3% increase, or roughly \$77.91 increase in their monthly electricity costs. Finally, the average commercial non-demand (SC2- Secondary – non-demand) will see an estimated 18.9% increase, or roughly \$13.35 in their monthly electricity costs.

According to PCLP, the positions of the parties in this matter had a wide range of proposed rate structures and revenue allocation as presented in direct, rebuttal and surrebuttal testimony. The Rate Design Petitioners' settled rate structure and design falls within the range of the litigation positions of the parties in this matter, is consistent with the record evidence, and is the result of compromise on varying opinions based on ratemaking principles accepted by the Commission.

PCLP goes on to explain that the Commission has repeatedly recognized that no single cost of service study methodology is perfect, and reasonable experts can present unique and defensible methodologies from a wide range of beliefs on cost of service study principles

which can lead to varying cost of service study results.⁹¹ The Rate Design Petitioners' compromising settlement position reflects sound principles, and results in rate structure consistent with the record evidence and accepted ratemaking principles. Therefore, PCLP asserts that approval of the proposed rate structure is in the public interest.

I&E states that the Public Utility Code does not permit a public utility to establish or maintain unreasonable differences in rates among rate classes.⁹² While there may exist sound justification for some discrepancies in rates under the principle of gradualism, this principle alone does not justify "allowing one class of customers to subsidize the cost of service for another class of customers over an extended period of time."⁹³ The revenue allocation set forth in the Rate Design Settlement not only reflects a compromise of the Rate Design Petitioners, but it also produces an allocation that moves each class closer to its actual cost of service. This movement is consistent with the principles of *Lloyd*. Accordingly, this revenue allocation is in the public interest because it is designed to limit customer class subsidies, and to place costs upon the classes responsible for causing those costs.

I&E also represents that the revenue allocation agreed to by PCLP, OCA and I&E is in the public interest as it moves each class closer to its cost to serve which is the ultimate goal when designing utility rates. The allocation agreed to closely matches the scaleback presented by I&E in testimony.⁹⁴ As noted by I&E Witness Sakaya, I&E targeted its scaleback so as to move rates closer to a relative return of 1.0.⁹⁵ The scaleback agreed to within this settlement is well supported in evidentiary record by the testimony and exhibits of I&E.

I&E agrees, observing that the Rate Design Settlement, coupled with the terms of the Revenue Settlement, exemplifies the benefits to be derived from a negotiated approach to

⁹¹ See e.g., *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 31 PUR 4th 15, 84 (1978).

⁹² 66 Pa.C.S. § 1304.

⁹³ *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1019-20 (Pa. Cmwlth. 2006) (LLoyd).

⁹⁴ I&E St. No. 3, pp. 32-34, and I&E St. No. 3-SR, pp. 21-23.

⁹⁵ I&E St. No. 3, p. 33.

resolving what can appear at first blush to be irreconcilable regulatory differences. The Rate Design Petitioners have carefully discussed and negotiated all issues raised in this proceeding, and specifically those addressed and resolved in the Rate Design Settlement. I&E represents that the Settlement maintains the proper balance of the interests of all parties. I&E is satisfied that no further action is necessary and considers its investigation of this rate filing complete.

OCA's support of the revenue allocation in the Rate Design Settlement focuses on the impact on residential customers. Under PCLP's filing, residential customers were to receive approximately \$850,000 of the initial request, an allocation of 43% of the requested increase to residential customers.⁹⁶ In testimony, I&E supported this allocation.⁹⁷ OSBA opposed PCLP's allocation based on disagreements with PCLP's COSS and proposed two allocation proposals. The first allocated \$1.18 million to residential customers, and the second allocated \$1.48 million to residential customer.⁹⁸

The OCA filed testimony challenging the COSS provided by PCLP. According to OCA's expert, the OCA modifications reflected the unique nature of Pike's small, single substation delivery system that does not allow for the diversification of demands.⁹⁹ Based on these concerns, the OCA proposed to allocate \$266,000 to residential customers out of the \$1.02 million overall revenue requirement litigation position of the OCA. OCA St. 2 at 24. Scaled up to the \$1.9 million initial request of Pike for comparison purposes, this amount would be approximately \$508,000 (of \$1.9 million) allocated to residential customers under the OCA testimony.

Based on the testimony admitted into the record in this proceeding, the revenue allocation positions for residential customers ranged from a low of 26% of the increase (OCA),

⁹⁶ PCLP Exh. E-8 at 2.

⁹⁷ See, I&E St. 3 at 31; I&E Exh. No. 3, sch. 7 (allocating 43% of requested increase to residential customers).

⁹⁸ See, OSBA St. 1 at 26-27 (allocating a range of 62% to 76% of the requested increase to residential customers).

⁹⁹ OCA St. 2 at 19.

to a high of 76% of the increase (OSBA). Under the Rate Design Settlement, residential customers would be allocated \$580,394 of the \$1.4 million revenue requirement increase contained in the Revenue Settlement, or 41.5% of the increase. Revenue Allocation Petition at ¶10.

The OCA submits that the allocation supported in this Petition is within the range of litigation positions in this proceeding. The Rate Design Settlement increase for the residential class is approximately consistent with Company's initial filing. That is, the amount of increase given to residential customers would approximate the increase initially proposed by PCLP (scaled down to the \$1.4 increase). As a result, the increase would be in line with the amounts proposed by PCLP and contained in the public notices that went to consumers. Given the public input testimony in this case and the ongoing pandemic and associated economic hardship (See, OCA St. 2 at 4-12), the OCA respectfully submits that allocating residential customers a substantially greater percentage of the increase than was initially proposed by PCLP would not be prudent.

OSBA strenuously opposes the revenue allocation in the Rate Design Settlement. In OSBA's view, the cost of service studies and resulting revenue allocations were premised upon studies which included "obvious technical errors." (See discussion above.) Specifically, the other COSS's were not appropriately grounded in cost causation, which is the "polestar" criterion for revenue allocation.¹⁰⁰ Accordingly, OSBA argues that the settled revenue allocation cannot be supported by any evidence in the record.

PCLP, in response to OSBA's opposition to the Rate Design Settlement, observes that while the OSBA attempts to discredit all other parties' testimony as reliant exclusively on technical issues in PCLP's as-filed cost of service study, the OSBA admits that the settlement falls within the range of litigation positions of the parties to the proceeding. PCLP goes on to explain that factors other than the COSS's influenced the settling parties in reaching a revenue allocation. The proposed rate structure and rate design was a product of compromise.

¹⁰⁰ See *Lloyd*.

PCLP explains that as a starting point for the Rate Design Settlement, Pike, I&E, and the OCA agreed to begin with a rate structure compromise modeled after I&E's revenue allocation and scale back proposal as presented in I&E's testimony as both Pike and the OCA in their respective reply briefs, recognized I&E's position as a reasonable alternative to each parties' proposed allocation. See Pike Reply Brief at 3-4; OCA Reply Brief at 9. To that end, Pike, I&E, and the OCA started, as a baseline, with the scale back of rates proposed by I&E. The Rate Design Settlement recognized multiple principles and adjustments presented in I&E's moderate position, including a reduction to the private lighting class as the relative rate of return was well above cost to serve, and a targeted scale back to move the classes towards a relative rate of return of 1.0.

PCLP also disputes OSBA's claim that *only* the COSS developed by OSBA can be considered. While the OSBA relies on *Lloyd* for the proposition that the Rate Structure Settlement allocation is inconsistent, in its view, with cost causation principles in cost of service studies, such arguments by definition rely on the OSBA's view that only its studies are correct and can be considered. Further, PCLP argues, *Lloyd* also held that the Commission may consider other factors, such as gradualism, while maintaining cost of service as the primary basis for allocating a revenue increase.¹⁰¹ As OCA stated in its testimony, we are in a pandemic presently which OCA considers in its litigation position to be a factor.¹⁰² The rate structure settlement allocation, as discussed in paragraphs 9-15 of the Rate Design Settlement, reach a balanced result that falls within the range of the cost of service studies and cost causation testimony presented by all parties in this matter which reflects a just and reasonable settlement that is, by definition, a product of mutual concessions by Pike, I&E, and the OCA to reach an agreement.

I&E also defends its COSS and analysis presented by its expert witness. According to I&E, revenue allocation is not a precise science with a particular formula that works in all instances. In the judgment of I&E's expert, the methodology chosen by PCLP was

¹⁰¹ *Lloyd*, at 1020-1021.

¹⁰² *See* OCA St. 2 at 4-12; OCA Supplemental Statement at 4.

deemed acceptable to I&E. Therefore, contrary to OSBA's position, I&E's approach is consistent with sound ratemaking principles.

OCA points to expert testimony rejecting OSBA's COSS. Dr. Pavlovic rejected the two proposed allocations of OSBA witness Knecht, stating:

Both revenue increase allocations are based on cost studies that incorporate Minimum-Size classification/allocation of distribution accounts, which I demonstrated in my direct testimony is inconsistent with the principle of cost causation.

In the case of the RDK WP2 revenue increase allocation, Minimum-Size classification/allocation is erroneously applied to the secondary line costs in FERC Accounts 364-367 and the line transformer costs in FERC Account 368.

In the case of RDK WP3 revenue increase allocation, the Minimum-Size classification/allocation error is compounded by extending the error to the primary line costs in FERC Accounts 364-367 and the service costs in FERC Account 369.

OCA St. 2-R at 10. Dr. Pavlovic based this recommendation on his analysis of the cost of service studies presented by PCLP and OSBA that is explained in his direct and rebuttal testimony. *See*, OCA St. 1 at 13-22; *see also*, OCA St. 2 at 2-8.

OCA also noted factors which support the settled revenue allocation, including the impact that the Covid-19 pandemic, and principles of gradualism and rate stability. According to OCA, the OSBA approach fails to give adequate weight to the additional considerations. OCA argues that OSBA's contention that it is the only party that has offered credible evidence is demonstrably incorrect upon review of other parties' testimony. Moreover, OSBA 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. Allocating residential customers a substantially greater percentage of the increase than was initially proposed by PCLP would not be prudent.

Finally, OCA notes the Rate Design Settlement results in a revenue allocation that is approximately consistent with PCLP's initial filing. That is, the amount of increase given to residential customers would approximate the increase initially proposed by PCLP (scaled down to the \$1.4 increase). As a result, the increase would be in line with the amounts proposed by PCLP and contained in the public notices that went to consumers and upon which public input testimony was provided.

2. Customer Charges

Rates are generally designed to include a fixed component, a customer charge, and a volumetric or consumption-related component. Despite their unresolved agreement regarding the COSS, the Active Parties reached an accord setting the fixed component of the rate increase. The Revenue Settlement provides that the residential customer charge will be \$8.50 per month, the Small Commercial customer charge will be \$17.26 per month, and Large Commercial Customer charge will be \$140.00 per month.

I&E supports the customer charges for all of the rate classes as agreed to in the Revenue Settlement. According to I&E, the ultimate resolution is in the public interest because it protects residential ratepayers while still providing PCLP with adequate revenue. Designing rates in this way allows customers to have greater control of their electric bills and is in the public interest because it affords customers the opportunity to decrease their usage in an effort to ultimately keep their utility bills lower. Limiting the increase in the customer charge demonstrates a compromise of the interests of the Active Parties and benefits PCLP's ratepayers. Therefore, I&E takes the position that this provision is in the public interest because it closely aligns the customer charge with the cost to serve those customers. Furthermore, conservation is in the public interest and having a customer charge that is aligned with the cost to serve allows the customer to realize the immediate benefit of conservation on the customer's bill. Designing rates that allow customers to have greater control of their utility bills is in the public interest.

In its original filing, PCLP recommended an increase to the residential customer charge, from \$8.50 to \$11.70. I&E's expert also did not recommend an increase to the

residential customer charge.¹⁰³ OCA, in its testimony, took the position that the current residential customer charge, \$8.50, should not be increased.¹⁰⁴ This fixed charge provides Pike Electric with a steady, predictable level of income which will allow Pike Electric to recover certain fixed costs such as metering, billing, and payment processing.¹⁰⁵

OCA specifically supports the residential customer charge provided in the Revenue Settlement. According to OCA, the settlement customer charge is a substantial reduction to Pike's original proposal and represents a reasonable outcome.¹⁰⁶ The Revenue Settlement provides for a modest increase of the residential customer charge to \$8.80.

Despite its objection to the COSS of the other parties, OSBA supports the Revenue Settlement customer charges because it includes a customer charge of \$17.26 for Rate SC2-S. This provision is consistent with Mr. Knecht's recommendations, as it reflects a scale-back of PCLP's proposal to reflect the reduced overall revenue requirement specified in the Partial Settlement. The OSBA therefore concludes that the proposed customer charge for Rate SC2-S is reasonable. The resolution of the foregoing issues was of special importance to the OSBA when it concluded that the Settlement was in the best interests of PCLP's small business customers.

3. Revenue Allocation and Rate Design Recommendation

I am not persuaded by OSBA that the revenue allocation agreed to by PCLP, I&E and OCA should be rejected because it is not consistent with OSBA's COSS.

¹⁰³ I&E St. 3 at 29.

¹⁰⁴ OCA St. 2 at 24.

¹⁰⁵ *Id.*

¹⁰⁶ Neither PCLP nor I&E provided a specific reason for supporting the compromise.

The methods and inputs for the competing COSS presented in this case were hotly contested among the experts. Contrary to OSBA’s position, there is substantial evidence in the record which suggests that it is not appropriate to rely on OSBA’s COSS to establish rates.

Both PCLP and OCA criticized OSBA’s cost of service study, which resulted in a significant portion of the revenue increase allocated to the residential class. Specifically, in rebuttal testimony, PCLP’s experts disputed the results of OSBA’s COSS, noting that OSBA’s assignment of a 30% customer component to primary plant is not only arbitrary, but also grossly overstates the customer component. Accordingly, PCLP’s experts recommended that OSBA’s COSS is “grossly in error” and should be rejected.¹⁰⁷

Similarly, OCA’s witness criticized the accuracy of OSBA’s COSS, arguing that Mr. Knecht made certain assumptions based solely on judgment and the practices of other utilities, resulting in an inaccurate assignment of costs to the various rate classes.¹⁰⁸

As argued in Pike’s reply brief, the OSBA’s cost of service studies are in-fact imperfect, are biased toward the constituency OSBA represents, and rely on unsupported and arbitrary assumptions that are not technically correct or supported by the record in order to achieve the OSBA’s desired result – specific benefits to the commercial class that distort OSBA’s cost of service studies to not accurately reflect the cost of service.¹⁰⁹ This creates biases, which ultimately taints the OSBA’s argument that only its revenue allocation proposals on record can be supported and that nothing else of record by the other parties can result in a just and reasonable allocation.

OSBA relies heavily on the Commonwealth Court’s decision in *Lloyd*. There, OSBA appealed from the Commission approval of a revenue increase requested by PPL Electric Utilities Corporation. Specifically, OSBA argued that the rate allocation for the distribution

¹⁰⁷ PCLP St. 1-R pp. 7-8.

¹⁰⁸ OCA St. 2-R pp. 7-8.

¹⁰⁹ See Pike Reply Brief at 2-3.

revenue increase unjustly discriminated against small business customers in favor of residential customers. The Commonwealth Court agreed, noting the oft-quoted maxim that the cost of providing service is the “polestar” of ratemaking. Despite the use of the word “polestar,” the court did *not* hold that the results of a cost of service study is the *only* factor the Commission may consider in setting rates. The court recognized that the Commission has broad discretion in setting rates, and that other factors may be considered in allocating a revenue increase among a utility’s rate classes:¹¹⁰

In *Philadelphia Suburban Transportation Company v. Pennsylvania Public Utility Commission*, 3 Pa.Cmwlth. 184, 281 A.2d 179, 186 (1971), we quoted with approval the following language from a Commission opinion in another case as properly descriptive of the principles applicable to the fixing of reasonable rate schedules:

There is no requirement that rates for different classes of service must be either uniform or equal or that they must be equally profitable. Differences in rates between classes of customers based on such criteria as the quantity of electricity used, the nature of the use, the time of the use, the pattern of the use, or based on differences of conditions of service, or cost of service are not only permissible but often are desirable and even necessary to achieve reasonable efficiency and economy of operation. Rate structure, which is an essential, integral component of rate-making, is not merely a mathematical exercise applying theoretical principles. Rate structure must be based on the hard economic facts of life and a complete and thorough knowledge and understanding of all the facts and circumstances which affect rates and services; and the rates must be designed to furnish the most efficient and satisfactory service at the lowest reasonable price for the greatest number of customers, i.e., the public generally. While cost to serve is important, other relevant factors may also be considered.

The court criticized the Commission for setting an arbitrary limit of a “10% ceiling on rate schedule increases on a total bill basis,” and failing to offer any explanation for how the standard prevents rate shock or how the resulting rate class discrimination will eventually be alleviated.

¹¹⁰ *Lloyd* at 1015-16.

Therefore, the court concluded that the Commission based its decision only on a principle of gradualism and gave no consideration to other valid ratemaking concerns.¹¹¹

Indeed, the Commission recently emphasized that many factors in addition to a utility's cost of service, should be weighed and considered in designing just and reasonable rates:

[W]e reject the notion that our continued use of these traditional ratemaking methodologies to determine the utility's cost of service somehow inherently limits our consideration and weighing of important factors or principles in setting just and reasonable rates, such as quality of service, gradualism, and rate affordability, during this pandemic. ^[112]

Cost of service studies are important. Ideally, public utility rates should enable a utility to recover its cost of service and should allocate this cost among its customers. However, “[c]ost allocation studies require a considerable amount of judgment and are described as more of an accounting/engineering art rather than a science.”¹¹³ COSS can be used as a rough target for apportioning class revenue increases, but as explained above, other factors can and should be considered as well.

OSBA does not address other factors which should be weighed in arriving at an allocation of the revenue increase among PCLP's rate classes. OSBA points to the Commission determinations in other base rate cases involving large utilities, but does not explain why it is appropriate to apply the same standards to a small utility such as PCLP, which lacks the large distribution system of utilities like PPL or UGI. Nor does OSBA explain any factors other than its cost of service study to justify the substantial allocation of the revenue increase to the residential class. While the revenue allocation provided in the Rate Design Settlement is not based on an agreed method of reflecting PCLP's cost of service, the Settling Parties explained

¹¹¹ *Id.* at 1020.

¹¹² *Columbia*, at 46-47 (footnotes omitted). *See also Pub. Util. Comm'n v. Pennsylvania-American Water Co.* Docket R-2020-3019369 (Opinion and Order entered February 25, 2021), at 46.

¹¹³ *Columbia* at 186 (citing *Application of Metro. Edison Co.*, R-00974008 (Order dated June 30, 1998); *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.*, 55 PUR 4th 185 (Order dated Aug. 19, 1983).

the other factors that were considered in reaching their agreement, including mitigating the impact of the Covid-19 Pandemic. The Commission recently acknowledged the impact that the Covid-19 pandemic may have on applying principles of gradualism and rate stability in allocating revenue increases in a base rate proceeding.¹¹⁴

In sum, I find the revenue allocation set forth in the Rate Design Settlement coupled with the customer charges unanimously agreed to in the Revenue Settlement, result in just and reasonable rates.

E. Objections of Mr. Gillinder

Mr. Gillinder generally objects to the Revenue Settlement and the Rate Design Settlement because, according to Mr. Gillinder, customers of PCLP are already paying above average market rates for electricity. Mr. Gillinder points to a recent rate increase requested by UGI and notes that the rate per kWh is less than the rate PCLP customers will pay. He goes on to suggest that neither he nor the statutory advocates have gotten complete or consistent information from PCLP. Finally, he refers to public input testimony of municipal officials who observed that economic development is negatively impacted by the high energy costs in the region. Mr. Gillinder requests that PCLP not be permitted to request an additional rate increase for six years.

Each utility's revenue needs are unique to the customer base and operation of each utility. As explained in detail above, all of the Active Parties submitted evidence supporting the necessity of a revenue increase for PCLP. The resulting agreements reached by PCLP and the statutory advocates take into account the economic challenges of PCLP's service territory and the impact of the Covid-19 Pandemic on its customers. Mr. Gillinder has not presented any evidence to support his view that PCLP should not be permitted to increase its

¹¹⁴ *Columbia*, at 233-34.

rates. Personal opinions, without more, do not constitute evidence and are insufficient to rebut the substantial evidence presented by PCLP and the statutory advocates.¹¹⁵

I am also not unsympathetic to Mr. Gillinder's observation that the Settlement does not include a stay-out provision, but I reject his suggestion that the Settlement should include a six-year stay-out. In my experience, six years is generally too long a period of time between rate filings, particularly given the increased focus infrastructure improvement responsibilities place on utilities, as well as the economic impact of the Covid-19 pandemic. Long periods between rate cases exacerbate rate shock to ratepayers and increase the likelihood that the utility will fail to make adequate investments necessary for the provision of service.

As to the remaining Ratepayer-Complainants, each was served with a copy of the settlements and briefs and offered an opportunity to comment or object to its terms and demonstrate why the case should be litigated rather than settled. Inasmuch as their due process rights have been fully protected, their respective formal complaints must be dismissed for lack of prosecution.¹¹⁶

F. Conclusion

After considering the terms and conditions of the Revenue Settlement and the Rate Design Settlement, I find that, taken together, the settlements produce rates that are just and reasonable. All of the Active Parties presented expert testimony in support of the various elements of the rate filing. The Active Parties engaged in discovery, and reviewed and evaluating the filing. The Active Parties also engaged in extensive settlement negotiations and made compromises, which the Commission has stated "fosters and promotes the public interest."¹¹⁷ The unanimous agreement of the company and statutory advocates resulting in a

¹¹⁵ Cf. *Kirby v. PPL Elec. Utils. Corp.*, Docket No. C-20066297 (Final Order entered November 16, 2006) (citing *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987)); *Rivera v. Phila. Gas Works*, Docket No. C-2010-2164222 (Order entered January 12, 2012).

¹¹⁶ See, *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984) (Commission is required to provide due process to the parties; when parties are afforded notice and an opportunity to be heard, Commission requirement to provide due process is satisfied).

¹¹⁷ *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assocs.*, 74 Pa. PUC 767, 771 (1991).

lower rate increase than originally proposed by PCLP, acknowledges the public input testimony describing the hardship caused to the customers in the service territory caused by the Covid-19 pandemic and other challenges.

The Rate Design Settlement does apportion a higher percentage of the rate increase to small businesses than advocated by OSBA, but on balance represents as fair resolution of the competing interests represented in this matter.

Accordingly, I find the settlement terms of the Revenue Settlement together with the Rate Design Settlement are in the public interest. I recommend the Commission approve both settlements without modification.

CONCLUSIONS OF LAW

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

2. To determine whether a settlement should be approved, the Commission must decide whether the settlement promotes the public interest. *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assoc.*, 74 Pa. PUC 767 (1991); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa. PUC 1 (1985).

3. Despite the policy favoring settlements, the Commission does not simply rubber stamp settlements without further inquiry. In order to accept a rate case settlement such as that proposed here, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

4. There must be sufficient information provided in a settlement in order for the Commission to determine that a revenue requirement calculation and accompanying tariffs

are in the public interest and properly balance the interests of ratepayers and utility stockholders. See *Pa. Pub. Util. Comm'n v. Pa. Power Co.*, 55 Pa. P.U.C. 552, 579 (1982); *Pa. Pub. Util. Comm'n v. Nat'l Fuel Gas Dist. Corp.*, 73 Pa. P.U.C. 552, 603-605 (1990).

5. There is no single way to arrive at just and reasonable rates, and “[t]he [Commission] has broad discretion in determining whether rates are reasonable” and “is vested with discretion to decide what factors it will consider in setting or evaluating a utility’s rates.” *Popowsky v. Pa. Pub. Util. Comm'n*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996).

6. The settlement terms and conditions contained in the Joint Petition for Partial Settlement of Rate Investigation at Docket No. R-2020-3022135 submitted by Pike County Light & Power, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small business Advocate and the Joint Petition on Rate Structure and Rate Design submitted by Pike County Light & Power, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, are just, reasonable and in the public interest, subject to resolution of the issues reserved for litigation. *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa.Cmwlth. 2006).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Partial Settlement filed on April 9, 2021, by Pike County Light and Power Company (Electric), the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate, is granted, and the Settlement is thereby adopted, in full, without modification or correction.

2. That the Joint Petition for Settlement on Rate Structure and Rate Design filed on April 16, 2021 by Pike County Light and Power Company (Electric), the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, is granted, and the Settlement is thereby adopted, in full, without modification or correction.

3. That Pike County Light and Power Company (Electric) is authorized to file tariffs, tariff supplements or tariff revisions containing rates, rules, and regulations, consistent with the Joint Petition for Settlement, to produce an increase in annual revenues of \$1.4 million consistent with the rates, rules and regulations set forth in Appendix B (Proof of Revenue) to the Joint Petition for Partial Settlement.

4. That Pike County Light and Power Company (Electric) shall be permitted to file tariffs in the form set forth in Appendix A to the Joint Petition for Settlement on Rate Structure and Rate Design, to become effective upon at least one day's notice, for service rendered on and after July 28, 2021, so as to produce an annual increase in revenues consistent with this Order.

5. That Pike County Light and Power Company (Electric), the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate shall comply with the terms of the Joint Petition for Partial Settlement submitted in this proceeding on April 9, 2021, as though each term and condition stated therein had been the subject of an individual ordering paragraph.

6. That Pike County Light and Power Company (Electric), the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, shall comply with the terms of the Joint Petition for Settlement on Rate Structure and Rate Design submitted in this proceeding on April 16, 2021, as though each term and condition stated therein had been the subject of an individual ordering paragraph.

7. That the complaint of the Office of Consumer Advocate at Docket No. C-2020-3022887, is deemed satisfied and marked closed.

8. That the complaint of the Office of Small Business Advocate at Docket No. C-2020-3022858, is deemed satisfied in part and dismissed in part and marked closed.

9. That the formal complaints of Complainants Shelley Saul at Docket No. C-2020-3022921, Dawn Metzger, Docket No. C-2020-3022987, Anthony Pinkala, Docket No. C-2020-3023020, William H. Yennie, III at Docket No. C-2020-3023035, Charles Gillinder at Docket No. C-2020-3023416, Carol Losee at Docket No. C-2020-3023152, John W. Dalton, Docket No. C-2020-3023239, Marla J. Hulse at Docket No. C-2020-3023418, and Candace Howard at Docket No. C-2020-3023490, in this proceeding be dismissed and marked as closed.

10. That upon acceptance and approval by the Commission of the tariffs and allocation of proposed settlement rate increase filed by Pike County Light and Power (Electric) this docket shall be terminated and marked closed.

Date: May 5, 2021

/s/
Mary D. Long
Administrative Law Judge