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May 27, 2021

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 and Power Company -- Electric
Docket No. R-2020-3022135

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Exceptions in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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Enclosures:

cc: The Honorable Mary D. Long (**email only**)
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Certificate of Service

*309815

CERTIFICATE OF SERVICE

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

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

Dated this 27th day of May 2021.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY EXCEPTIONS
OF THE
OFFICE OF CONSUMER ADVOCATE

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I. INTRODUCTION

On May 5, 2021, the Office of Administrative Law Judge issued the Recommended Decision (RD) of Administrative Law Judge (ALJ) Mary D. Long in Pike County Light & Power Company's (Pike or Company) base rate proceeding. In the RD, ALJ Long recommended approval of two settlements. The first, was the April 9, 2021 Revenue Settlement agreed to by all of the active parties in the proceeding. The second was the Joint Petition for Settlement on Rate Structure and Rate Design (Rate Design Settlement) filed on April 16, 2021 by Pike, the Bureau of Investigation and Enforcement (I&E), and the Office of Consumer Advocate (OCA, collectively referred to as the Rate Design Petitioners). In her well-reasoned RD, ALJ Long recommended that both settlements be adopted, in full, without modification or correction. RD at 43-44. The OSBA filed an Exception to the RD on May 20, 2021 in opposition to the Rate Design Settlement. The OCA submits this Reply in opposition to the OSBA's Exception. The OCA submits that ALJ Long has reached the appropriate conclusion based on the evidence admitted and the relevant legal requirements in making her recommendations in this proceeding, and her RD should be adopted without modification.

II. REPLY EXCEPTIONS

Reply to OSBA Exception No. 1: Contrary to the OSBA's Arguments, the Revenue Allocation Recommended by the ALJ Results in Just and Reasonable Rates (R.D. at 36-40).

The OSBA filed a single Exception, in which it argues that ALJ Long incorrectly concluded that the revenue allocation set forth in the Rate Design Settlement resulted in just and reasonable rates. OSBA Exc. at 3-7. The crux of OSBA's argument is that there are only two credible cost of service models in evidence (OSBA's "ECOSS I" and "ECOSS II"), and the Commission is legally required to tie the allocation in this case to one of its two preferred cost studies. OSBA

Exc. at 3-8. Both of these arguments were properly rejected by the ALJ, and the Commission should reject them as well.

With regard to its first argument, OSBA states in its Exception that, “the Commission can only approve the revenue allocation in the Non-Unanimous Settlement if it is consistent with either: the Company’s rebuttal ECOSS (similar to OSBA ECOSS I) or the OSBA ECOSS II.” OSBA Exc. at 6. The OCA submits that the OSBA position is without merit and was properly rejected by the ALJ. In her RD, ALJ Long explained that there were significant differences in the testimony. ALJ Long explained:

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.

RD at 37.

OCA witness Karl Pavlovic detailed the basis upon which the Commission should not accept the OSBA’s preferred cost of service studies through Direct, Rebuttal and Surrebuttal testimony. In Rebuttal testimony, Dr. Pavlovic rejected the two proposed allocations of OSBA witness Knecht. See, OCA St. 2-R at 10. Dr. Pavlovic based this recommendation on his analysis

of the cost of service studies presented by the Company and OSBA that is explained in his direct and rebuttal testimony. See, OCA St. 2 at 13-22; see also, OCA St. 2R at 2-8.

The ALJ further held that the OSBA's cost studies did not accurately capture the unique nature of Pike's distribution system. The ALJ explained:

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.

RD at 39.

As the OCA's witness Dr. Karl Pavlovic testified, however, Pike's electric delivery system is supplied by a single substation. OCA St. 2 at 19. As a result, the accepted theoretical basis for conducting a Cost of Service Study in the manner conducted for Pennsylvania's large distribution system is lacking in this case. See, OCA St. 2 at 12-20. Specifically in relation to the uniqueness of Pike, OCA witness Pavlovic explained that demand-related costs should be allocated on a Coincident Peak (CP) rather than Non-Coincident Peak (NCP) basis.

In its rebuttal testimony, OSBA argued that the fact that Pike's distribution system was unlike other systems did not alter the need to adopt its preferred cost study – specifically that Non-NCP allocators should be used to allocate demand-related costs. OSBA St 1-R at 6-7. OCA witness Pavlovic rebutted the OSBA position point by point. See, OCA St. 1-SR at 13-15. The OCA submits that directly tying the entire allocation of the revenue increase in this case on either of the two Cost of Service Studies preferred by OSBA is inappropriate, as those studies do not reflect the unique realities of Pike's distribution system.

The OSBA's second argument, that the Commission must approve an allocation tied to its ECOSS I or ECOSS II, is equally flawed. ALJ Long directly addressed the applicable legal

standards guiding the Commission's revenue allocation in this proceeding. See, RD at 37-39. The ALJ summarized the flaw in the OSBA's legal reasoning, as follows:

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 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.

RD at 37-38 (citing, Lloyd v. Pa. PUC, 904 A.2d 1010, at 1020 (Pa. Commw. Ct. 2004) (Lloyd)).

As detailed by ALJ Long, the factual basis for the Lloyd decision is not at play here. In that case, the Commission approved a revenue allocation designed to keep total bill impacts from any rate increase below what the Court determined to be an arbitrary "ten percent" limit. RD at 38; Lloyd at 1020. 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), to a high of 76% of the increase (OSBA). Pike Exh. E-8 at 2; I&E St. 3 at 31; I&E Exh. No. 3, sch. 7; OSBA St. 1 at 26-27; OCA St. 2 at 24. Under the Rate Design Settlement, residential customers would be allocated \$580,394 of the \$1.4 million revenue requirement increase contained in the April 9 Settlement, or 41.5% of the increase. Revenue Allocation Petition at ¶10.

The OCA further submits that the OSBA's arguments tying revenue allocation to its preferred cost studies is not be reasonable in this case. It is axiomatic that cost of service studies, while providing guidance, do not capture cost causation with absolute precision. The ALJ recognized that 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. RD at 39. In its recent decision in Columbia Gas' rate proceeding, the Commission held:

[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.

Pa. PUC v. Columbia Gas of Pennsylvania, Docket No. R-2020-3018835, Opinion and Order at 233-234 (Feb. 19, 2021). Applying the OSBA's allocation, particularly during the pandemic, would result in unreasonable residential rate shock. The ALJ comprehensively rejected the OSBA's preferred mechanical adherence to tying revenue allocation to a specific cost of service study in this proceeding. RD at 38-40. The OCA submits that ALJ Long correctly rejected the OSBA interpretation of the Lloyd decision in this matter.

The OCA submits that Judge Long was correct in concluding that the negotiated Rate Design Settlement that reaches a balanced result and falls within the range supported by the evidence of all parties, including Cost of Service Studies, results in just and reasonable rates. OSBA's position that precedent in Lloyd requires the Commission to only approve a revenue allocation if it relies on the OSBA's Cost of Service Studies is fatally flawed. The RD acknowledges testimony of both Pike and the OCA that note other factors, such as gradualism, rate stability, and the Covid-19 pandemic, support the settled revenue allocation. RD at 33-34. The RD determined that the Rate Design Settlement was "a product of mutual concessions by Pike, I&E, and the OCA to reach an agreement." RD at 33. The Rate Design Petitioners considered all evidence considered as they negotiated in good faith.

ALJ Long acknowledged that the Rate Design Settlement "reach[ed] 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.” RD at 33. The RD acknowledged that 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.” RD at 29. The Rate Design Petitioners considered all the evidence in crafting a carefully negotiated Rate Design Settlement allocation. ALJ Long properly considered all evidence in determining that the revenue allocation set forth in the Rate Design Settlement results in just and reasonable rates.

The ALJ accurately summarized the OCA’s position regarding revenue allocation, as follows:

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.

RD at 32. The OCA submits that the recommendation of the ALJ must be adopted.

III. CONCLUSION

For the reasons detailed above, as well as those contained in its Main Brief, Reply Brief, Statement in Support and April 22, 2021 Responsive Comments to the OSBA's Objection the Revenue Allocation Settlement, the OCA supports the Commission's adoption of ALJ Long's RD. ALJ Long properly balanced the evidence in this case, including the testimony concerning the impact of the pandemic, and applied the law in a fair and reasonable manner. The ALJ's RD must be approved.

Respectfully Submitted,

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