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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

January 21, 2022

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

Re: Pennsylvania Public Utility Commission v.
Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc.
Docket Nos. R-2021-3027385 and R-2021-3027386
I&E Reply Brief

Dear Secretary Chiavetta,

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

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 63641
(717) 425-7593
sgranger@pa.gov

SBG/ac
Enclosures

cc: Administrative Law Judge Mary D. Long (*via First-Class and Electronic Mail*)
Per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, *et al.*	:	
	:	
v.	:	R-2021-3017385, *et al.*
	:	
Aqua Pennsylvania, Inc (Water)	:	

Pennsylvania Public Utility Commission, *et al.*	:	
	:	
v.	:	R-2021-3017386, *et al.*
	:	
Aqua Pennsylvania Wastewater, Inc	:	

REPLY BRIEF
OF
THE BUREAU OF INVESTIGATION & ENFORCEMENT

Scott B. Granger
Prosecutor
PA Attorney ID No. 63641

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Dated: January 21, 2022

TABLE OF CONTENTS

TABLE OF CITATIONS

Cases

Other Authorities

Regulations

Statutes

I. INTRODUCTION

A. Description of Company

See Main Briefs of the parties.

B. Procedural History

The history of this proceeding was addressed in I&E's Main Brief ("I&E MB"), filed on January 11, 2022, and in the main briefs submitted by Aqua Pennsylvania Water and Wastewater ("Aqua MB" or "AP MB" or "Company MB"); the Office of Consumer Advocate ("OCA MB"); the Office of Small Business Advocate ("OSBA MB"); the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA MB"); the Aqua Large Users Group ("Aqua LUG MB"); and the Masthope Mountain Community Association ("Masthope MB" or "MMCA MB") and will not be restated here.

I&E now submits this I&E Reply Brief ("I&E RB") in reply to the main briefs of Aqua, OCA, OSBA, CAUSE-PA, Aqua LUG, and MMCA; and, in support of the arguments and recommendations made by the I&E witnesses, the record evidence presented, and I&E's Main Brief. Overall, the arguments made in the parties' main briefs have been raised consistently throughout the litigation process and have already been addressed in I&E's direct, rebuttal and surrebuttal testimony, as well as in I&E's Main Brief. This reply brief will enhance its previously set forth arguments as necessary.

C. Burden of Proof

I&E fully addressed the applicable burden of proof in its Main Brief.[1]

I&E reiterates that Aqua has failed to meet its burden and therefore I&E respectfully requests that the Administrative Law Judge and the Commission adopt the adjustments and the overall revenue requirement set forth in the voluminous record evidence presented by I&E as summarized in I&E's Main Brief.

II. SUMMARY OF ARGUMENT

Reiterating the summary of its arguments from I&E's Main Brief, I&E continues to assert that Aqua failed to present substantial credible record evidence to support its request for a $97.68 million revenue requirement increase. Further, based upon I&E's direct, rebuttal and surrebuttal testimony and the supporting exhibits, the substantial record evidence supports a total revenue increase of only $33.91 million inclusive of both water and wastewater.

<u>RATE BASE</u>

Fair Value - Water. In summary, I&E separated the rate base fair value Water and Wastewater Base for purposes of this proceeding. I&E is recommending a total fair value for Aqua Water rate base of 3,815,961,707.

I&E recommends that the Phoenixville acquisition adjustment of $2,437,305 be denied. The denial of the Phoenixville acquisition adjustment results in the reduction of the Company's claimed annual amortization expense by $121,865 which is expressed as

---

1 *See* I&E MB, pp. 4-5.

a depreciation expense in this filing. This results in the Company's total annual amortization expense being reduced to $409,015.

Fair Value - Wastewater Base. I&E recommends a total fair value for Aqua Wastewater Base rate base of $198,368,990.

Future Test Year and Fully Projected Future Test Year Reporting – Utility Plant in Service. I&E recommends that the Company provide the Commission's Bureaus of Technical Utility Services and Investigation & Enforcement with an update to schedule G-2 of Aqua Exhibits 1-A, 1-B, 1- C, 1-D, 1-E, 1-F, and 1-G, no later than July 1, 2022 which should include actual capital expenditures, plant additions, and retirements by month for the 12 months ending March 31, 2022; and, an additional update for actuals for the year ending March 31, 2023 no later than July 1, 2023.

REVENUES

Forfeited Discounts - Water. I&E recommends that the Company's late payment claim under proposed rates be increased by the same percent increase as the overall base rate increases approved by the Commission.

Forfeited Discounts – Wastewater - Present Rates. I&E recommends that late payment revenue for Zone 11-New Garden be increased from $0.00 dollars to $17,382 under present rates.

Forfeited Discounts – Wastewater - Proposed Rates. I&E recommends revising the late payment revenue. Changes in proposed rates in Zones 1 through 6, cause the overall percentage to increase from 32.2% to 32.5%, which causes the late payment revenue to increase accordingly. Specifically, this change causes the late payment revenue to increase from $23,436 to $31,054, which is an increase of $7,618 or 32.5% under proposed rates for the FPFTY.

Sales for Resale Contracts - Rider DRS - Water. I&E recommends that the following contracts be canceled; Sharpsville; Schwenksville; Chemung; Horsham; New Wilmington; and Masury, and the affected entities begin to pay full tariff rates when they go into effect. As a result of I&E's recommendation to cancel the identified sales for resale rider contracts and rider rates, I&E recommends present rate revenue be increased by $3,248,807.

Third-Party Sales. Aqua has eight third-party sales customers. I&E only recommends that the flat rate for East Brandywine be increased to $446.75 per month and the increase be applied to the Company's Revenue.

EXPENSES

Rate Case Expense. I&E has accepted the Company's proposal of a 36 months rate case period. I&E recommends that the rate case expense be normalized rather than amortized.

Insurance Expense. I&E recommends increases to the Company's insurance expense claims for Wastewater Base; Limerick Wastewater; East Bradford Wastewater; Cheltenham Wastewater; and East Norriton Wastewater. I&E recommended reductions to the Company's insurance expense claims for Water, and New Garden Wastewater.

PURTA. I&E reviewed and has no recommendation for the Company's PURTA claim.

Depreciation - Amortization Expense – Water - Phoenixville. I&E recommends that the annual amortization expense of $121,865 related to the Phoenixville acquisition be denied.

Purchased Water Expense. I&E recommends that Aqua only be allowed to reflect water purchases from Aqua Ohio at $0.3449 per hundred gallons. This recommendation results in a decrease, or annual savings, of $166,795 for Pennsylvania ratepayers.

Dredging Expense Reserve. I&E recommends that the Company's dredging expense be normalized; and, that the Company's proposed use of a reserve account and regulatory liability be rejected. Further, I&E recommends no adjustment to the claimed dollar amount for dredging expense.

Labor Expense. I&E and the Company have both accepted the OCA recommended full-time vacancy rate of 2.88%. Further, I&E withdrew both its proposed adjustment to Employee Benefits and its proposed adjustment to Federal and State Payroll Tax as a result of the Company's acceptance of the 2.88% vacancy rate.

Cash Working Capital. I&E agrees with the Company's use of a lead/lag study regarding cash working capital. Further, I&E recommends a cash working capital allowance for Water of $1,679,000. I&E did not recommend an adjustment to cash working capital for Wastewater Base or the other wastewater acquisitions. Also, cash working capital adjustments are subject to the iteration process.

Gas and Electric Expense. I&E did not recommend adjustments to the Company's claimed gas and electric expenses. However, I&E recommends that the proposed Energy Cost Adjustment Mechanism be denied.

TAXES

Federal Tax Adjustment Surcharge. I&E recommends that the proposed Federal Tax Adjustment Surcharge be denied.

RATE OF RETURN

I&E agreed with the Company's proposed Capital Structure and Cost of Long-Term Debt rate. I&E recommends the following rate of returns for Aqua:

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	46.05%	4.00%	1.84%
Common Equity	53.95%	8..90%	4.80%
Total	100.00%		6.64%

I&E continues to recommend using the Discounted Cash Flow method as the primary method to determine the cost of common equity. Further, I&E recommends using the results of the Capital Asset Pricing Model as a comparison to the DCF results.

Management Performance. I&E recommends that no additional basis points be awarded for management performance. Any management performance basis points that may be awarded will simply be passed through as an additional cost to the ratepayers and as a benefit to the Company's shareholders.

Inflated Growth Rate. I&E recommends that the Commission reject the Company's assertion that DCF growth rates can be determined subjectively and inflated.

Leverage Adjustment. I&E recommends that the Company's proposed 234 basis point leverage adjustment be rejected. Company's leverage adjustment is inappropriate because it is inconsistent with commission precedent, and, it would result in a large pass-through burden on ratepayers.

Size Adjustment. I&E recommends that the Company's proposal to use a CAPM size adjustment of 102 basis points be disallowed.

Conclusion - Overall Rate of Return. I&E recommends that the Company should be afforded the opportunity to earn an overall rate of return of 6.64%.

CUSTOMER PROGRAMS AND MISCELLANEOUS ISSUES

Regulatory Asset Treatment for COVID-19 Uncollectible Expense. I&E recommends that the Company be required to track further COVID-19 related reductions to uncollectibles by Water and the individual Wastewater revenue requirements; and, that the balances be claimed in the next rate filing which the Company anticipates to be filed in 2024. Further, I&E recommends that the Company propose amortization of the balance, at the time, amortized over a period of years, to be claimed in the next rate proceeding; and, that the Company not be allowed to claim interest or any time value of money component associated with the delay. Also, I&E recommends that the Company be allowed to claim no increases to COVID-19 related uncollectibles beyond the effective date of new rates in this proceeding, and that any new increases to the COVID-19 related uncollectibles should not be recoverable in a future proceeding.

Universal Service Programs. The Company provided a comprehensive description of the Company's proposed programs and support for universal service and low-income programming that will be utilized to assist Aqua Water and Wastewater customers. I&E recognized that as part of the Company's acquisition of the Peoples Companies, Aqua agreed to propose a universal service plan, and the Commission approved. I&E recommends acceptance of almost all of Aqua's proposed universal service plan with a few modifications and additions.

I&E recommends that the Company be required to perform income verifications to admit participants into the universal service programs to ensure legitimacy of applicants and reduce misuse of the programs. Also, I&E recommends that the Company be required to demonstrate effort is made to encourage participants to take advantage of the Federal Low-Income Household Water Assistance Program funds made available via the American Rescue Plan. Finally, I&E recommends that the Company monitor available federal and state assistance programs and notify customers of all available sources of aid.

Income Verification. I&E recommends the Commission require the Company to establish guidelines for income verification consistent with the Peoples Companies' requirements.

Universal Service Plan Costs Recovery. I&E recommends that the costs for a full-scale universal service plan, as proposed by the Company, be recovered via a reconcilable surcharge mechanism, like that used by the Peoples Companies, that tracks dollar-for-dollar net costs. Further, the Commission has recommended that a comparable funding mechanism as those used by the natural gas and electric distribution companies in Pennsylvania is preferable. Finally, I&E strongly opposes the OCA recommendation to recover the universal service plan costs through base rates.

RATE STRUCTURE

Cost of Service Study - Water. I&E made no recommendations regarding the cost-of-service study for Aqua Water operations.

Cost of Service Studies - Wastewater. I&E recommends the Company continue to combine Wastewater Zones 1 through 6 in one cost of service study. I&E also recommends the Company combine Wastewater Zones 7 through 11 into one cost of service study in its next base rate case. Further, future Section 1329 systems acquired subsequent to this rate proceeding should continue to have a separate cost of service study for each system included in the next base rate case following the acquisition.

Rate Zones - Water. I&E is proposing only a $17.22 million increase in rates to Water customers. I&E recommends all of the Company's proposed percentage increases per rate class be subject to a final scale back based on the final approved revenue increase to be applied to the Water customers.

Rate Zones - Wastewater. I&E notes the Company has 11 different Wastewater rate zones, with different subsystems and eight different third-party customers. I&E agreed that given the wide variety of present wastewater rates, the Company's proposal to continue the various rate zones is reasonable. To summarize, I&E recommends that Zone 2 should not be merged into Zone 1, and that Zone 2 rates should be increased. Further, existing Zones 3 through 6 should remain and will need to have separate tariff pages.

Revenue Allocation - Generally. I&E recognizes that, generally, utilities that provide more than one different type of utility service cannot shift costs from one operation to the other. Act 11 however is a statutory exception to this rule.

Act 11 Subsidy. I&E recommends an Act 11 subsidy of $10,439,352. In contrast, the Company is proposing an Act 11 subsidy of $20,839,425.

Revenue Allocation – Water - Wastewater. I&E recommends the revenue allocations, after applying I&E's proposed Act 11 subsidy, as shown on App. A, I&E table VII – Water - Act 11 Allocation attached to I&E MB as Appendix A.

Scale Back of Rates - Water. I&E recommends that the revenue requirements and the scale backs of Wastewater operations must first be determined prior to the application of a scale back of rates to the Water operations rates. The Wastewater operations revenue requirement must be set first because that will determine the amount of Act 11 subsidy revenue requirement to be allocated to Water operations. Once the Act 11 Wastewater to Water subsidy allocation is determined by the Commission, then the full revenue requirement to be placed on Water operations can be determined and those rates can then be scaled back.

Scale Back of Rates - Wastewater. I&E recommends that no scale back of Wastewater rates should occur until the until the total Act 11 Wastewater subsidy is eliminated. It is in the public interest to reduce the Act 11 subsidy as much as possible. Wastewater customers in all rate zones should contribute to reduce and eliminate the Wastewater subsidy.

Rate Structure - Water. I&E recommends a total revenue increase for water customers of $17,222,604. I&E's proposed total revenue increase for water customers is only 20% of the company's proposed increase of $86.12 million.

Rate Structure - Wastewater. I&E witness Joseph Kubas details I&E's proposed Wastewater rate design in his direct and surrebuttal testimony and the accompanying exhibits. Mr. Kubas performed a comprehensive review of the parties direct and rebuttal testimonies to arrive at I&E's final proposed Wastewater rate structure.

TARIFF PROPOSALS

Purchased Water Adjustment Clause. I&E recommends that the proposed purchased water adjustment clause be rejected.

Energy Cost Adjustment Mechanism. I&E recommends that the energy cost adjustment mechanism be rejected.

CONCLUSION

Aqua has not met its burden of proof as the record evidence presented by Aqua does not substantiate a revenue increase of $97.68 million. Instead, based on the weight of the record evidence, the Commission should grant Aqua the I&E recommended revenue increase of $33.91 million.

III. I&E OVERALL POSITION ON RATE INCREASE REQUEST

As presented in I&E's Main Brief, I&E's total recommendation for all Aqua revenue requirements combined is $584,241,297. This recommended revenue requirement represents an increase of $33,909,310[2] to the I&E-adjusted present rate revenues of $550,331,987.[3]

---

[2] I&E MB, p. 16. *See also*, I&E MB, App. A, I&E Table VII – Water – Act 11 Allocation.

[3] *Id.*

To provide further detail, I&E is recommending specific revenue increases as follows:

Water	Wastewater (WW) Base	WW Limerick	WW East Bradford	WW Cheltenham	WW East Norriton	WW New Garden
$6,783,252	$14,073,406	$5,112,610	$738,982	$2,366,685	$2,536,693	$2,297,682
	Total Wastewater Combined					
	$27,126,058					

The figures in the table above do not reflect I&E's recommended Act 11 revenue subsidy shift of $10,439,352 from wastewater to water which would raise total revenue requirement increase for water from $6,783,252 to $17,222,604; and, at same time would lower the total revenue requirement for wastewater from $27,126,058 to $16,686,706.[4]

IV. RATE BASE

I&E defined rate base generally in its main brief.[5] Aqua's rate base claim calculation includes depreciated original cost plant in service plus additions of Materials and Supplies and Cash Working Capital as well as deductions of contributions in aid of construction ("CIAC") and customer advances for construction ("CAC"), deferred income taxes, and Investment Tax Credit as shown on Schedule G-1 on Aqua Exh. 1-A through 1-G.[6]

---

4 I&E MB, p. 17. *See also*, I&E MB, App. A, I&E Table VII – Water – Act 11 Allocation.
5 *Id.*, pp. 17-18.
6 *Id.*, p. 17.

A. Fair Value - Water

I&E separated the rate base fair value for water and wastewater for purposes of this proceeding.

1. Fair Value

I&E continues to recommend a total fair value for Aqua Water rate base of $3,815,961,707.[7] I&E continues to recommend adjustments based on the acquisition of the Borough of Phoenixville water system ("Phoenixville").[8] I&E is not, however, recommending any adjustments to the additions and deductions to the Company's claimed rate base for plant additions and retirements as set forth on Aqua Exh. 1-A through 1-G, Sch. G.[9]

2. Acquisition Adjustment – Water – Phoenixville

I&E continues to recommend that the Phoenixville acquisition adjustment should be denied.[10] This recommendation reduces rate base by $2,315,440 (based on the depreciated original cost at March 31, 2023) and also reduces the annual amortization expense by $121,865.[11]

The Company continues to argue that it has satisfied the requirements of Section 1327[12] of the Public Utility Code with regard to the acquisition of the Phoenixville water system.[13] Aqua claims that it has provided evidence that demonstrates that Phoenixville

---

7 *Id.*, p. 18. *See also* I&E MB, App. A, I&E Table I - Water, col. F, line. 22.
8 *See* I&E MB, pp. 19-20.
9 *Id.*, p. 18.
10 I&E MB, pp. 19-20.
11 *Id.*, p. 19.
12 66 Pa. C.S. § 1327.
13 Aqua MB, p. 22.

(the seller) was not providing adequate, efficient, safe, and reliable service and facilities.[14] Further, Aqua argues that the condition of the system at the time of its acquisition demonstrates that the Borough was not providing adequate, efficient, safe, or reliable service claiming that the high level of nonrevenue or unaccounted for water, estimated at 68%, is extremely poor, indicating substantial leaks and metering issues.[15] Aqua concluded it has satisfied Section 1327(a) and it is entitled to the rebuttable presumption that the positive acquisition adjustment's claimed are reasonable and should be included in Aqua's Water rate base.[16]

I&E continues to assert that the acquisition adjustment for Phoenixville should be denied[17] because Aqua failed to present substantial evidence that the Phoenixville acquisition meets the criteria set forth in Section 1327(a).[18] I&E refutes Aqua's argument that 68% non-revenue water shows that Phoenixville was a troubled system.[19]

Specifically, the Company provided no detail to indicate that there were substantial service issues or failed systems causing the 68% non-revenue water; and, much of this non-revenue water could be due to other end-of-service plant issues that were known or knowable.[20] Further, the Company cited 52 Pa. Code § 65.20 which is a statement of policy regarding water conservation measures.[21] I&E acknowledges that Section 65.20(4) does mention that unaccounted for water levels should be kept within reasonable

---

[14] *Id.*, p. 24.
[15] *Id.*, p. 25.
[16] *Id.*, p. 26.
[17] I&E MB, pp. 19-20.
[18] 66 Pa. C.S. § 1327(a).
[19] *Id.*, p. 20, *citing* I&E St. No. 3-SR, pp. 4-7.
[20] *Id.*, p. 20.
[21] Aqua MB, p. 25, *citing* 52 Pa. Code § 65.20(4).

amounts, noting that levels above 20% have been considered by the Commission to be excessive.[22] However, I&E asserts that Section 65.20(4) does not stand for the presumption that a system experiencing above 20% unaccounted for water is a *de-facto* troubled water system. As I&E noted, there are various other end-of-service plant issues that were known or knowable that could be the cause[23] and Section 65.20 merely advises that water conservation measures may be necessary. Therefore, in consideration of the above I&E recommends that the Phoenixville acquisition adjustment be denied.

3. Annual Amortization Expense – Water – Phoenixville

The denial of the Phoenixville acquisition adjustment also reduces the annual amortization expense by $121,865 which is expressed as a depreciation expense.[24]

Aqua argued that the positive acquisition adjustment regarding Phoenixville should be approved, and therefore, Aqua's depreciation reserve should also reflect approval of the Phoenixville positive acquisition adjustment.[25]

I&E continues to recommend that the Phoenixville acquisition adjustment be denied and, therefore, the resultant Phoenixville annual amortization expense adjustment must be denied as well. I&E recommends that the Company's total annual amortization expense be reduced to $409,015 ($530,879 - $121,865).[26]

---

22 52 Pa. Code § 65.20(4).
23 I&E MB, 20.
24 *Id.*, p. 21. *See also* I&E MB, App. A, I&E Table I, Aqua PA - Water, col. E, line 14.
25 Aqua MB, pp. 18-19.
26 I&E MB, p. 21.

B. Fair Value – Wastewater Base

I&E continues to recommend a total fair value for Aqua Pennsylvania - Wastewater Base rate base of $198,368,990.[27]

C. FTY and FPFTY Reporting - Utility Plant in Service

I&E continues to recommends the Company provide the Commission's Bureaus of Technical Utility Services and Investigation and Enforcement with an update to Schedule G-2 of Aqua Exhibits 1-A, 1-B, 1-C, 1-D, 1-E, 1-F, and 1-G, no later than July 1, 2022 which should include actual capital expenditures, plant additions, and retirements by month for the twelve months ending March 31, 2022, and, an additional update for actuals for the year ending March 31, 2023, no later than July 1, 2023.[28] The Company agreed to provide such projections as part of its previous base rate case in which it made use of the FPFTY.[29] The Company did not challenge I&E's recommendation to continue to provide the requested updates in this proceeding.[30]

V. REVENUES

A. Forfeited Discounts – Water

I&E continues to recommend that the Company's late payment claim under proposed rates be increased by the same percent increase as the overall base rate increase approved by the Commission.[31]

---

[27] *Id. See also* I&E MB, App. A, I&E Table I, - Wastewater, col. F, line 22.
[28] I&E MB, pp. 21-22.
[29] *Id.*
[30] *Id.*, p. 22.
[31] I&E MB, p. 23.

Aqua correctly states that I&E accepted the Company's adjustment and withdrew its recommended $1.3 million adjustment.[32] However, I&E continues to reject the Company's argument that the Company has already reflected late payments in revenues.[33] Therefore, I&E continues to recommend that the Company's late payment claim under proposed rates be increased by the same percent increase as the overall base rate increase approved by the Commission.

B. Forfeited Discounts – Wastewater – Present Rates

I&E continues to recommend that late payment revenue for Zone 11 – New Garden be increased from $0 to $17,382 under present rates.[34] I&E made this recommendation because the Company did not collect Late Payment Revenue in the HTY, but it is currently collecting and will continue to collect late payment revenue in the FPFTY ending March 31, 2023.[35] The Company agreed with I&E's recommendation.[36] Further, Aqua has indicated that this adjustment is included in the Company's final revenue requirement exhibits and the tables attached to its main brief.[37]

C. Forfeited Discounts – Wastewater – Proposed Rates

I&E continues to assert that since proposed wastewater rates will change, and late payment revenue is based upon the overall percentage of the increase, it is necessary for I&E and the Commission to address I&E's late payment revenue recommendation.[38]

---

[32] Aqua MB, p. 56.
[33] I&E MB, pp. 22-23.
[34] *Id.*, p. 23.
[35] *Id.*
[36] Aqua MB, pp. 56-57.
[37] *Id.*, p. 57.
[38] I&E MB, pp. 24-25.

I&E's proposed changes to proposed rates in Zones 1 through 6 causes the overall percentage to increase from 32.2% to 32.5%, which causes the late payment revenue to increase accordingly.[39] It is reasonable to expect that late payment revenue will increase when a utility's base rates are increased as a result of a base rate proceeding.[40] Since late payment revenue is generally a percentage of a customer's bill, increasing revenue through a rate increase will cause revenues from late payments to increase over time.[41] I&E rejects the Company's argument that it already made an adjustment for the increase in late payment revenue regarding proposed rates.[42]

D. Sales for Resale Contracts – Rider DRS – Water

Initially I&E recommended that each of the several rider contracts be cancelled, and that each customer begin to pay full approved tariff rates when they become effective.[43] I&E reasoned, the Company continued to provide updated information throughout this proceeding.[44] These contracts were addressed by I&E witness Cline and much of his testimony is proprietary.[45] Witness Cline's testimony was summarized to avoid creating a PROPRIETARY version of I&E's Main Brief.[46]

Aqua argued that Rider DRS is available to existing or new customers that intend to purchase water from the Company for resale and have a viable competitive alternative

---

39 *Id.*, p. 24.
40 *Id.*
41 *Id.*, p. 25.
42 *Id.*
43 I&E MB, p. 25.
44 *Id.*
45 I&E St. No. 4 PROPRIETARY: I&E St. No. 4-SR PROPRIETARY.
46 I&E MB, pp. 25-29.

to service from the Company.[47] Aqua added, customers that can satisfy the requirement of Rider DRS can enter into customer-specific contracts at prices designed to maintain sales <u>that would otherwise be lost to water service alternatives</u>.[48] And this is precisely the focus of the I&E argument.

Aqua failed to provide substantial evidence of the availability of competitive alternatives despite I&E's repeated requests.[49] I&E is not attempting to undermine any argued benefits to Aqua customers. I&E simply asked Aqua to comply with the requirements as stated in its Tariff. Therefore, in light of Aqua's failure to present substantial evidence to support its' arguments, I&E continues to recommend the cancellation of certain sales for resale contracts as stated in I&E's Main Brief and as discussed *infra*.[50]

1. United Water

I&E did not address the United Water contract because it was previously approved by the Commission.[51]

2. Hubbard

I&E will accept the information provided by the Company.[52] Therefore, I&E withdraws its recommendation to cancel the Hubbard contract.[53]

---

[47] Aqua MB, p. 38, *citing* Aqua St. No. 2-R, p. 11.
[48] *Id.* (*emphasis added*).
[49] I&E MB, pp. 25-29.
[50] *Id.*
[51] I&E MB, p. 26.
[52] *Id.*
[53] *Id.*

3. Sharpsville

I&E analyzed and does not accept the information provided by the Company.[54] Therefore, I&E continues to recommend that the Sharpsville contract be cancelled and it begin to pay full tariff rates when they go into effect.[55]

4. Schwenksville

I&E analyzed and does not accept the information provided by the Company.[56] Therefore, I&E continues to recommend that the Schwenksville contract be cancelled and it begin to pay full tariff rates when they go into effect.[57]

5. Warwick

I&E will accept the information provided by the Company.[58] I&E withdraws its recommendation to cancel the Warwick contract.[59]

6. Chemung

The Company failed to provide additional information.[60] Further, Chemung is one of the contracts that was specifically listed in the 2018 Settlement as requiring additional documentation.[61] I&E continues to recommend that the Chemung contract be cancelled and it begin to pay full tariff rates when they go into effect.[62]

---

[54] *Id.*
[55] *Id.*
[56] I&E MB, p. 27.
[57] *Id.*
[58] *Id.*
[59] *Id.*
[60] *Id.*
[61] *Id.*
[62] *Id.*

7. Horsham

Despite a request, the Company (and Horsham) failed to provide additional information regarding Horsham's competitive alternatives.[63] I&E continues to recommend that the Horsham contract be cancelled and it begin to pay full tariff rates when they go into effect.[64]

8. Downingtown

I&E will accept the additional information provided by the Company.[65] I&E withdraws its recommendation to cancel the Downingtown contract.[66]

9. New Wilmington

Aqua failed to provide sufficient information to support the New Wilmington "wheeling" agreement.[67] As such, New Wilmington is a normal Rate DRS customer. I&E continues to recommend that the New Wilmington contract be cancelled and it begin to pay full tariff rates when they go into effect.[68]

10. Bristol

I&E will accept the additional information provided by the Company.[69] I&E withdraws its recommendation to cancel the Bristol contract.[70]

---

63 *Id.*
64 *Id.*
65 I&E MB, p. 28.
66 *Id.*
67 *Id.*
68 *Id.*
69 *Id.*
70 *Id.*

11. Masury

Aqua failed to provide sufficient substantial evidence to support granting Masury competitive rider rates.[71] I&E continues to recommend that the competitive rider rates granted to Masury be cancelled. There is no Masury rate in the proposed tariff and Masury does not have a water supply contract with Aqua.[72] Masury cannot qualify for Rider DRS.[73] Aqua has admitted that the agreement with Masury was only filed with the Commission on November 30, 2021.[74] Further, I&E recommends that Masury be billed at full tariff rates until such time in the future that an affiliated interest agreement is approved by the Commission.[75]

As a result of I&E's recommendations to cancel certain of the sales for resale rider contracts and rider rates as set forth above, I&E reiterates that present rate revenue should be increased by $3,248,807.[76]

E. Third Party Sales

Aqua has eight third-party sales customers.[77] The present rate revenue from the third-party sales is $1,095,381.[78] The Company proposed to increase rates for all but two (Southdown Homes and East Brandywine) of the third-party customers.[79] The remaining

---

71 *Id.*
72 I&E MB, p. 28.
73 *Id.*
74 Aqua MB., p. 49. *See Affiliated Interest Agreement Aqua Pa. Inc., and Aqua Ohio, Inc.*, Docket No. G-2021-3029918.
75 I&E MB, p. 29.
76 *Id.*, p. 29. *See also*, I&E MB, App. A, I&E Table I - Water, col. E, line 11.
77 I&E MB, p. 29.
78 *Id.*
79 *Id.*

customers will experience a proposed increase in annual bills ranging from 14% to 58.8%.[80]

The Company revised the proposed revenue for Southdown Homes.[81] The Company's revised proof of revenue show Southdown Homes paying a usage rate of $1.35 per hundred gallons.[82] I&E accepted this proposed usage rate.[83] I&E continues to recommend that the flat rate for East Brandywine be increased to $446.75 per month as noted above.[84] The flat rate for East Brandywine should be increased and applied to Revenues independent of any base rate increase granted by the Commission.

VI. EXPENSES

All parties agree on the applicable legal principles regarding operation and maintenance expenses. The public utility requesting a rate increase and seeking to recover expenses has the burden of showing that the rate requested, including all claimed expenses, is just and reasonable.[85]

A. Rate Case Expense

The Company proposed, and I&E accepted, a 36-month rate case period.[86] The only issue that remained was whether the rate case expense should be normalized or amortized.[87]

---

80 *Id.*
81 *Id.*, p. 30.
82 *Id.*
83 *Id.*
84 *Id.*
85 66 Pa. C.S. § 315(a); *See also Cup v. Pa. P.U.C.*, 556 A.2d 470 (Pa. Commw. 1989).
86 I&E MB, p. 31.
87 *Id.*, p. 31-32.

I&E asserted, and continues to assert, the Company's rate case expense claim should be normalized for rate making purposes instead of amortized because it is an ongoing expense that recurs at irregular intervals, which is the precise circumstance under which normalization treatment of an expense should occur.[88]

In its main brief, Aqua states that it appears there is a misunderstanding among the parties.[89] Aqua stated, to be clear, Aqua proposes to normalize its rate case expense over 36-months for ratemaking purposes, which is the anticipated interval between this and the Company's next base rate case.[90]

Therefore, it appears that Aqua and I&E agree that Aqua's rate case expense of $2,200,000 be normalized over 36-months for rate making purposes.

B. Insurance Expense

I&E continues to recommend the following amounts for insurance expense:[91]

Water - $4,574,332 or a reduction of $340,945 ($4,915,277 - $4,574,332) to the Company's updated claim.

Wastewater Base - $34,967 or an increase of $18,640 ($34,967 - $16,327) to the Company's updated claim.

Limerick Wastewater - $9,146 or an increase of $3,533 ($9,146 - $5,613) to the Company's updated claim.

East Bradford Wastewater - $2,021 or an increase of $789 ($2,021 - $1,232) to the Company's updated claim.

Cheltenham Wastewater - $16,113 or an increase of $6,299 ($16,113 - $9,814) to the Company's updated claim.

88 *Id.*
89 Aqua MB, p. 78.
90 *Id.*
91 I&E MB, pp. 32-34.

East Norriton Wastewater - $6,297 or an increase of $1,382 ($6,297 - $4,915) to the Company's updated claim.

New Garden Wastewater - $1,276 or a decrease of $676 ($1,952 - $1,276) to the Company's updated claim.

The Company argued that it updated its insurance claims to reflect actual information that became available after its base rate case had been filed.[92] Aqua also argued that a five-year average is reasonable because it smooths out anomalies and volatility in changes in insurance premiums.[93] However, the Company accepted the use of a three-year average.[94] The Company then applied a three-year average increase of 4.38% to the updated claimed actual amounts accrued for 2022.[95]

I&E continues to question the Company's updated claims and reject the Company's arguments.[96] I&E also continues to note that Aqua's revised claims for all the wastewater revenue requirements as presented in Company rebuttal decreased from direct testimony to rebuttal testimony with no explanation for that directional change.[97] Furthermore, the Company provided no documentation for the recent 2022 accruals to support the changes in rebuttal testimony.[98] I&E continues to question the reliability of the amounts stated on the schedules presented by the Company in rebuttal testimony for these reasons and continues to recommend that insurance expense be increased by 4.38% per year from the HTY to the FTY, and 4.38% again from the FTY to the FPFTY based

---

92 Aqua MB, p. 75.
93 *Id.*
94 *Id.*
95 *Id.*
96 I&E MB, pp. 33-34.
97 *Id.*
98 *Id.*

on a three-year average trend.[99] I&E also continues to note that the Company applied the 4.38% three-year average increase to update the Company's monthly insurance premiums for the last three months of the FPFTY (January through March 2023).[100] Therefore, I&E continues to recommend the insurance expenses as set forth above.

C. PURTA

I&E raised this issue in I&E direct, but withdrew it in I&E surrebuttal.[101]

D. Depreciation - Amortization Expense - Water - Phoenixville

I&E continues to recommend the Phoenixville acquisition adjustment be denied.[102] And, as a result, I&E also continues to recommend that the related annual amortization expense of $121,865 also be denied.[103] *See* Section IV. A. 3. Annual Amortization Expense - Water - Phoenixville *supra* for additional explanation.

E. Purchased Water Expense

I&E continues to recommend that Commission only allow Aqua to reflect water purchases from Aqua Ohio at $0.3449 per hundred gallons.[104] I&E's recommendation is based on the Sales for Resale Contract - Masury Water Company implied rate (calculated composite rate including customer charges) of $0.3449 ($302,907 ÷ 878,333 hundred gallons).[105]

---

99 *Id.*
100 *Id.*
101 I&E MB, p. 34.
102 *Id.*, pp. 20-21, 34.
103 *Id. See also* I&E MB, App. A, I&E Table I, Aqua PA – Water, col. E, line 14.
104 I&E MB, pp. 34-35.
105 *Id.*

Aqua argues that, as the purchase of water from Aqua Ohio - Struthers Division is made pursuant to tariff rates that have been approved by the applicable authorities with jurisdiction to regulate those utility rates, Aqua PA's claimed purchased water expense should not be adjusted.[106] Aqua argues further, that rate is unaffected by the rate to be charged by Aqua PA to the Masury Division, which is based upon a contract rate established based upon the cost of a competitive alternative available to the Masury Division.[107]

I&E rejects the Company's arguments and continues to assert, I&E's recommendation is based on the premise that the cost of purchased water should be the same as the rate Aqua PA receives when it sells water to that same affiliate for ratemaking purposes so that Pennsylvania customers are not harmed.[108] I&E was not recommending that Aqua change its tariff rate for Aqua Ohio.

Further, Aqua failed to provide sufficient substantial evidence to support granting Masury competitive rider rates.[109] I&E continues to recommend that the competitive rider rates granted to Masury be cancelled because Masury does not have a water supply contract with Aqua and cannot qualify for Rider DRS.[110] Additionally, I&E continues to recommend that Masury be billed at full tariff rates until such time in the future that an affiliated interest agreement is approved by the Commission.[111]

---

[106] Aqua MB, p. 83.
[107] *Id.*
[108] I&E MB, p. 35.
[109] *Id.*
[110] *Id.*
[111] *Id. See Aqua Affiliated Interest Agreement,* Docket No. G-2021-3029918.

Therefore, I&E continues to recommend that Commission only allow Aqua to reflect water purchases from Aqua Ohio at $0.3449 per hundred gallons. Reducing the water purchase rate for Aqua Ohio purchases to $0.3449 per hundred gallons would result in a fair and reasonable decrease from $297,839 to $131,044 which is an annual savings of $166,795 for Pennsylvania ratepayers.[112]

F. Dredging Expense Reserve

I&E continues to recommend that Aqua's dredging expense be normalized and that the Company's proposed use of a reserve account and regulatory liability be rejected.[113] I&E recommended no adjustment to the claimed dollar amount.[114]

The Company argues that the Company's request to accrue a reserve for dredging costs will better align the cost recovery in ratemaking to the operating expense incursion.[115] Aqua claims the dredging expense is not systematic and can vary upon water quality conditions.[116] Aqua stated that actual dredging costs would be charged against the reserve.[117]

I&E rejects the Company's arguments and reasserts that this routine operating expense is more appropriately normalized for ratemaking purposes; and, accrual treatment via a regulatory liability should be rejected because dredging expense is not extraordinary in nature and regulatory liability treatment should not be granted.[118]

---

112 I&E MB, p. 36.
113 *Id.*, pp. 36-37.
114 *Id.*, p. 36.
115 Aqua MB, p. 85.
116 *Id.*
117 *Id.*
118 I&E MB, p. 36.

Further, normalized dredging expenses are no different than any other O&M expense in that the Company is given the opportunity to achieve full recovery.[119] Therefore, I&E continues to recommend that the dredging expense be normalized and that the Company's proposed use of a reserve account and regulatory liability be rejected.[120]

G. Labor Expense

After reviewing Company testimony, exhibits and discovery responses, I&E had determined an appropriate vacancy level would be 2.7% considering an average of quarterly vacancy percentages from March 2019 through September 2021.[121]

However, the Company accepted the OCA recommended full-time vacancy rate of 2.88% in Company rebuttal testimony,[122] I&E withdrew its recommended adjustment for labor expense and also accepted the OCA recommendation.[123]

H. Employee Benefits

I&E originally proposed adjustments to the Company's employee benefits claim.[124] However, I&E withdrew its recommended adjustment to the Company's employee benefits claim as a result of the Company's acceptance of the OCA modified vacancy rate of 2.88% as discussed *supra* in Section G - Labor Expense.

---

119 *Id.*
120 *Id.*, p. 37.
121 I&E MB, p. 37.
122 Aqua MB, pp. 66-67.
123 I&E MB, p. 37.
124 *Id.*

I. Federal and State Payroll Tax

I&E originally recommended adjustments to the Company's Federal and State payroll tax claim.[125] However, I&E withdrew its recommended adjustment[126] to the Company's Federal and State payroll tax claim as a result of the Company's acceptance of the OCA modified vacancy rate of 2.88%[127] as discussed *supra* in Section G - Labor Expense.

J. Cash Working Capital

I&E agreed with the Company's use of a lead/lag study to measure how many days exist on average between the midpoint of the service period and the date the payment is received.[128] However, I&E recommended a cash working capital allowance for Water of $1,679,000 which is a reduction of $57,000 from the Company's claimed $1,736,000.[129] I&E did not recommend an adjustment to CWC for Wastewater Base or the other wastewater acquisitions due to a lack of materiality that would result in those adjustments.[130]

Aqua disagreed with the I&E cash working capital allowance based on the Company's ongoing disagreement with I&E's corresponding recommended O&M adjustments.[131]

---

125 I&E MB, pp. 37-38.
126 *Id.*
127 *See* Aqua MB, p. 88.
128 I&E MB, p. 38.
129 *Id.*
130 *Id.*
131 Aqua MB, pp. 31-32.

I&E continues to recommend a cash working capital allowance for Water of $1,679,000, but does not recommend an adjustment to CWC for Wastewater Base or the other wastewater acquisitions.

K. Gas and Electric Expenses (Purchased Power)

The Company claimed gas and electric O&M expenses. I&E is not recommending adjustments to those O&M expense claims in this proceeding.[132] I&E is, however, recommending that the proposed Energy Cost Adjustment Mechanism ("ECAM") is rejected in its entirety.[133] This issue is discussed in greater detail in Section XI. B. Energy Cost Adjustment Mechanism, *infra*.

VII. TAXES

A. Federal Tax Adjustment Surcharge

I&E continues to urge the rejection of the Company's proposed Federal Tax Adjustment Surcharge ("FTAS").[134] I&E reasoned that the Company's stated need for the surcharge is pure speculation as the Company cannot say with certainty if or when an increase to the federal corporate income tax rate might be enacted or ever take effect.[135]

Aqua appears to argue that the response of the Commission regarding the Tax Cut and Jobs Act was slow and caused an unreasonable delay that drastically affected the Company.[136]

---

[132] I&E MB, p. 39.
[133] *Id.*, pp. 94-96.
[134] I&E MB, pp. 39-41, *citing* I&E St. No. 1, pp. 28-29; I&E St. No. 1-SR, pp. 32-46.
[135] *Id.*, p. 39.
[136] Aqua MB, pp. 259-263.

I&E disagrees and reiterates that I&E is confident that the Commission would provide adequate and timely guidance on a statewide basis to affected regulated utilities if such a tax rate change occurs.[137] Further, I&E asserts, with regard to the excess ADIT concerns, deferred taxes require more scrutiny of regulators and statutory parties due to subjectivity in certain circumstances in determining the proper normalization periods, particularly for tax differences associated with non-protected assets that are not subject to the strict requirements of IRS normalization rules.[138] It is important for the Commission to not allow rate adjustments in a surcharge mechanism for excess ADIT changes as the Company has proposed.[139] Accordingly, there is simply no need for the proposed FTAS at this time and I&E strongly recommends that the Commission reject the Company's proposed Federal Tax Adjustment Surcharge in its entirety.

VIII. RATE OF RETURN

A. Introduction - Rate of Return Standards

The Company's requested return on equity and its requested overall rate of return is unjustifiably too high and not supported by a properly applied discounted cash flow method.[140] I&E did agree with the Company's proposed capital structure and debt cost rate.[141] However, I&E recommended the following reduction to the Company's equity

---

[137] I&E MB, p. 40.
[138] *Id.*, pp. 40-41.
[139] *Id.*, p. 40.
[140] I&E MB, pp. 41-56.
[141] *Id.*, p. 42.

return and overall rate of return:[142]

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	46.05%	4.00%	1.84%
Common Equity	53.95%	8.90%	4.80%
Total	100.00%		6.64%

All parties generally agree on the principles guiding rate of return determinations. And, while it is a contested component of the revenue requirement formula, the Commission has clarified its position over the last several years and rate of return is becoming less and less controversial.[143] A fair and reasonable overall rate of return is one that will allow the utility an *opportunity* to recover those costs prudently incurred by all classes of capital used to finance the rate base during the prospective period in which its rates will be in effect.[144]

B. Capital Structure

I&E continues to recommend using the Company's claimed capital structure as it falls within the range of the I&E proxy group's 2020 capital structures, which is the most recent information available at the time of I&E's analysis.[145]

C. Cost of Long-Term Debt

I&E also continues to recommend using the Company's updated claimed long-term debt cost rate of 4.00% for the FPFTY which results in a weighted cost of debt of 1.84%.[146]

142 *Id.*
143 *See* I&E MB, pp. 45-55.
144 *Id.*, p. 42.
145 *Id.*, p. 44.
146 *Id.*, pp. 44-45.

D. Cost of Common Equity

I&E continues to recommend using the Discounted Cash Flow ("DCF") method as the primary method to determine the cost of common equity.[147] I&E also continues to recommend using the results of the Capital Asset Pricing Model ("CAPM") as a comparison to the DCF results.[148] I&E reiterates that its recommendation is consistent with the methodology historically used by the Commission in base rate proceedings, even as recently as 2017, 2018, 2020, and 2021.[149] Further, considering the most recent *Columbia Gas*[150] proceeding, this "issue" can now be relegated to the "well settled" category. Although the Company disagrees and continues to rely on other methods to determine an appropriate cost of equity, doing so is in error as the Commission recently noted, in *Columbia*:

> we shall adopt the position of I&E and shall base our determination of the appropriate cost of equity on the results of the DCF method and shall use the CAPM results as a comparison thereto. As I&E noted, the use of the DCF model has historically been our preferred methodology and was recently affirmed in *UGI Electric*. Like the ALJ, we find no reason to deviate from the use of this method in the instant case.[151]

The Commission also recently affirmed its primary reliance on the DCF and rejected giving equal weight to the other methodologies in *UGI Utilities, Inc. - Electric*

---

147 I&E MB, p. 45.
148 *Id.*
149 *Id.*, pp. 45-46, (citations omitted).
150 *Id.*, *citing Pa. P.U.C. v. Columbia Gas of Pennsylvania Inc.,* Docket No. R-2020-3018835, Order Entered February 19, 2021 (*Columbia Gas*).
151 *Id.*, p. 46, *citing Columbia Gas*, p. 131.

Division (UGI Electric), stating:

> The ALJs adopted the positions of I&E and the OCA that the DCF method should be the primary method used to determine the cost of common equity, and that the results of the CAPM should be used as a comparison to the DCF results. The ALJs found no reason to deviate from these preferred methods in this proceeding. Therefore, the ALJs recommended against the use of the RP and CE methods proffered by UGI. Further, the ALJs noted that the companies analyzed under the CE model are too dissimilar to a regulated public utility company. R.D. at 60, 76, 81-82 …[W]e shall adopt the positions of I&E and the OCA and shall base our determination of the appropriate cost of equity on the results of the DCF method and shall use the CAPM results as a comparison thereto. As both Parties noted, the use of the DCF model has historically been our preferred methodology. This was recently affirmed in *Pa. P.U.C., et. al v. City of Dubois-Bureau of Water*, Docket No. R-2016-2554150, *et. al.* (Order Entered March 28, 2017). Like the ALJs, we find no reason to deviate from the use of this method in the instant case. Accordingly, we shall deny UGI's Exceptions on this issue.[152]

The result of I&E's DCF analysis is 8.90%[153] while the result of I&E's CAPM analysis is 9.89%;[154] both of which are significantly lower than the Company's claim of 10.75%.[155]

The issues in the Company's application of the preferred DCF model is the Company witness' attempt to interject unsupported factors like an inflated proxy group, inflated dividend yield; and, unsupported adjustments such as a leverage adjustment, an inflated growth rate.[156] Further, it is important to note that without the Company's use of

---

[152] I&E MB, p. 46, *citing UGI Utilities, Inc. – Electric Division,* Docket No. R-2017-2640058, pp. 103-106.
[153] *Id.*
[154] *Id.*,
[155] Aqua MB, p. 140.
[156] *Id.*, pp. 110-117.

inflated growth rates and its 234-basis point leverage adjustment, the Company's DCF would result in a 9.07% cost of equity, which is comparable to I&E's DCF result of 8.90%.[157] The DCF method is the most reliable and is appealing to investors.[158] Therefore, I&E continues to recommend a cost of common equity of 8.90%.[159]

E. Management Performance

I&E continues to recommend that Aqua not be awarded additional rate of return basis points.[160] Aqua opines that Aqua is committed to providing safe and reasonable service, for the benefit of the communities it serves and the environment.[161] But, I&E would remind Aqua that, as a regulated public utility, Aqua is required to provide "adequate, efficient, safe and reasonable service and facilities" to its customers in the communities it serves.[162] Further, the Public Utility Code requires "such service also shall be reasonably continuous and without unreasonable interruptions or delay."[163]

Also, the Company offers a list of the facility maintenance and services and programs that Aqua provides.[164] I&E reminds Aqua that all of the facility maintenance and services and programs listed are funded by the Aqua ratepayers.[165] I&E notes that Aqua did not list any management initiatives the cost of which are absorbed by the Aqua shareholders. Further, I&E disagrees and reiterates that true strong management

---

157 I&E MB, pp. 46-47.
158 *Id.*, p. 47.
159 *Id.*
160 I&E MB, p. 48.
161 Aqua MB, p. 129.
162 I&E MB, pp. 47-48, *citing* 66 Pa. C.S. § 1501.
163 66 Pa. C.S. § 1501.
164 Aqua MB, pp. 129-137.
165 I&E MB, pp. 48-50.

performance is earning a higher return through its efficient use of resources and cost cutting measures.[166] The greater net income resulting from cost savings and true efficiency in management and operations is available to be passed on to shareholders.[167]

Finally, the Commission affirmed the Administrative Law Judge's denial of management performance points in *Pa. P.U.C. v. Columbia Gas*.[168] The Commission summarized the Recommended Decision and stated:

> [The ALJ] agreed with I&E, the OCA, and the OSBA that Columbia failed to provide sufficient evidence to support its proposal for an additional twenty-basis points for "strong management performance." The ALJ reasoned that while effective operating and maintenance cost measures should flow through to ratepayers and/or investors, Columbia's proposal defeats the purpose of cutting expenses to benefit ratepayers, particularly during a pandemic when so many ratepayers have experienced reduced household income from job loss or reduction in hours. Therefore, the ALJ recommended that no upward management effectiveness adjustment be made to the Company's cost of equity.[169]

I&E continues to urge that Aqua should not be awarded additional basis points for doing what they are required to do by the Public Utility Code and Commission regulations in order to provide adequate, efficient, safe, and reasonable service.[170] Any awarded management performance points would simply pass through as an additional cost to the ratepayers and a benefit to the shareholders.

---

166 *Id.*, p. 47.
167 *Id., pp. 47-48.*
168 *Id.*, p. 50, *citing Columbia Gas,* p. 78.
169 *Id.*, *citing Columbia Gas,* p. 134.
170 I&E MB, p. 50.

F. Inflated Growth Rate

I&E continues to recommend that the Company's flawed assertion that DCF growth rates can be determined subjectively and inflated be rejected.[171]

The Company's rate of return witness applied "judgement" subjectively "chose" a DCF growth rate of 7.50%[172] even though the average growth rate of the Company's sources is 7.13%.[173] in support of its flawed argument, the Company simply repeats the failed arguments in its main brief that its witnesses made in preserved testimony.[174]

In reply, I&E reiterates that DCF growth rates should be established by mathematical formulation, and that any alternative method is subjective and introduces additional and unnecessary bias and should be avoided when possible.[175] Further, the Company's use of a higher growth rate than the average of the Company's proxy group ignores the fact that analysts making earnings per share growth forecasts are already aware of the economic conditions and the state of the water utility industry.[176] The flawed reasons the Company has given for choosing 7.50% are factors that are already included in the earnings per share growth forecasts; thus, choosing a growth rate higher than the average of the Company's proxy group would incorrectly account for the same factors twice.[177]

---

[171] I&E MB, p. 51.
[172] Aqua MB, p. 112.
[173] I&E MB, p. 51.
[174] Aqua MB, pp. 111-112.
[175] I&E MB, p. 51.
[176] *Id.*
[177] *Id.*

Therefore, I&E continues to recommend the Company's proposed subjective and inflated DCF growth rate be rejected in its entirety.

G. Leverage Adjustment

I&E continues to recommend that the Company's proposed 234-basis point leverage adjustment be rejected.[178]

The Company proposed to make an outrageous 234-basis point leverage adjustment, which I&E estimates will cost ratepayers $68,578,855 annually, to the result of the Company's results of its DCF analysis to account for applying a market valued cost of equity to a book value capital structure. In support of this outrageous request, Aqua's rate of return witness makes the unusual argument that the unadjusted DCF results, ranging from the low of 8% recommended by OCA, to Aqua's unadjusted result of 9.44%, demonstrate that the DCF is currently producing unreasonable results that do not fully take into account the risks facing Aqua PA.[179] But this argument falls flat when you add in the I&E DCF result of 8.90%.[180] Further, without the Company's use of inflated growth rates and a leverage adjustment, Aqua's DCF would consist of a dividend yield of 1.94% and an average growth rate of 7.13%, which results in a 9.07% cost of equity.[181] This result is even closer to I&E's DCF result of 8.90%.[182] Then, it becomes

---

178 I&E MB, p. 52.
179 Aqua MB, p. 117.
180 *See* I&E MB, pp. 41-55.
181 *Id.*, p. 54.
182 *Id.*

clear that ALL of the fairly calculated DCF results are considerably below Aqua's inflated 10.75% recommended by the Company's rate of return witness.[183]

Further, I&E reiterates that the Company's leverage adjustment is inappropriate for several more reasons, including the characterization of financial risk; its inconsistency with Commission precedent; and, its actual pass-through burden on ratepayers. I&E argued the Company's position is not supported by any academic journals, textbooks, or other literature.[184] Additionally, rating agencies assess financial risk based upon a company's booked debt obligations and the ability of its cash flow to cover the interest payments on those obligations.[185] The agencies use a company's financial statements for their analysis, not market capital structure.[186] It is a company's financial statements that affect the market value of the stock, and, therefore, the financial statements and the book value capital structure are relied upon in an analysis such as that done by rating agencies.[187]

Also, the Commission has rejected proposed leverage adjustments time and time again.[188] To reiterate, first, in *Pennsylvania Public Utility Commission v. Aqua Pennsylvania, Inc.*,[189] the Commission rejected the ALJ's recommendation for a leverage adjustment stating, "[t]he fact that we have granted leverage adjustments in the past does not mean that such adjustments are indicated in all cases."[190]

---

183 *Id.*, p. 41.
184 *Id.*, p. 52.
185 *Id.*
186 *Id.*
187 *Id.*
188 *Id.*, pp. 53-54.
189 *Pa P.U.C v. Aqua Pennsylvania, Inc.*, at Docket No. R-00072711 (Order Entered July 31, 2008).
190 *Id.*, p. 38.

Second, in *Pennsylvania Public Utility Commission, et al v. City of Lancaster – Bureau of Water*,[191] the Commission agreed with the I&E position and stated, "any adjustment to the results of the market based DCF are unnecessary and will harm ratepayers. Consistent with our determination in *Aqua 2008* there is no need to add a leverage adjustment."[192]

Third, in *Pennsylvania Public Utility Commission, et al v. UGI Utilities, Inc. – Electric Division*,[193] the Commission agreed with the I&E position and stated, "we conclude that an artificial adjustment in this proceeding is unnecessary and contrary to the public interest. Accordingly, we decline to include a leverage adjustment in our calculation of the DCF cost of equity."[194]

Last, in the most recent case of *Pa. P.U.C., et. al v. Columbia Gas of Pennsylvania, Inc.*,[195] the Commission adopted the ALJ's recommendation to use I&E's DCF methodology, which excluded the use of a leverage adjustment.[196]

Additionally, if the Commission were to approve the proposed leverage adjustment to the cost of equity, it would force ratepayers to fund the unwarranted and unreasonable additional amount of $68,578,855 annually to cover the increase of the inflated rate of return along with the associated impact resulting from increases to income taxes, gross receipts tax, uncollectibles, and assessments.[197]

---

191 *Pa. P.U.C. v. City of Lancaster – Bureau of Water*, at Docket No. R-2010-2179103 (Order Entered July 14, 2011).
192 *Id.*, p. 79.
193 *UGI Electric.,* Docket No. R-2017-2640058 (Order Entered October 25, 2018).
194 *Id.*, p. 93-94.
195 *See Columbia Gas.*
196 *Id.*, pp. 137-141.
197 I&E MB, p. 54.

Finally, I&E asserts that investors base their decisions on book value debt and equity ratios for the regulated utilities, therefore, no adjustment is needed.[198] The Company's proposed adjustment serves only to manipulate the DCF's market-based methodology and causes substantial harm to ratepayers.[199] Therefore, I&E continues to recommend that the Company's proposed leverage adjustment be rejected in its entirety.

H. Size Adjustment

I&E continues to recommend the Company's proposal to use a CAPM size adjustment of 102-basis points be rejected in its entirety.[200]

The Company repeated the flawed arguments proffered in its preserved testimony in its main brief.[201]

I&E reiterates, the Company's proposed size adjustment is unnecessary and unsupported because none of the technical literature the Company cited in testimony supporting investment adjustments related to the size of a company is specific to the utility industry nor is it relevant in this proceeding.[202] Additionally, the Commission has recently rejected the application of a size adjustment to the CAPM cost of equity calculation where it agreed that the same literature the Company cites is not specific to the utility industry.[203] Absent any credible article to refute the relevant literature cited by I&E, the Company's proposed size adjustment to its CAPM results should be rejected.[204]

---

198 *Id.*, p. 54.
199 *Id.*,
200 I&E MB, p. 56.
201 Aqua MB, pp. 120-121.
202 I&E MB, p. 55.
203 *Id.*, p. 56.
204 *Id.*, p. 55.

I. Conclusion - Overall Rate of Return

I&E continues to recommend that the Company should be afforded the opportunity to earn an overall rate of return of 6.64%.[205] This recommended overall rate of return is comprised of a weighted average of a 1.84% rate of return on long-term debt and a 4.80% rate of return on common equity.[206]

IX. CUSTOMER PROGRAMS AND MISCELLANEOUS ISSUES

A. Regulatory Asset Treatment for COVID 19 Uncollectible Expense

I&E continues to recommend the Company be required to track further COVID-19 related reductions to uncollectibles by Water and the individual Wastewater revenue requirements; and, that the balances be claimed in the next rate filing, which is anticipated to be filed in 2024.[207] Further, I&E continues to recommend that the Company amortization of the balance, at that time, amortized over a period of years, be claimed in the next rate proceeding; and, that the Company be allowed to claim no interest or any time value of money component associated with the delay.[208] Also, I&E continues to recommend that the Company be allowed to claim no increases to COVID-19 related uncollectibles beyond the effective date of new rates in this proceeding.[209] Any new increases to the COVID-19 related uncollectibles should not be recoverable in a future proceeding.[210]

---

205 I&E MB, p. 42.
206 *Id.*
207 I&E MB, p. 58.
208 *Id.*, pp. 58-59.
209 *Id.*, p. 59.
210 *Id.*

Aqua reiterated that it proposed to receive continued authorization to defer incremental bad debt expense related to the COVID-19 pandemic.[211] Aqua experienced increased levels of unpaid billings or bad debt, due to the service termination moratorium.[212] Aqua added, although the service termination moratorium has ended, the Commonwealth of Pennsylvania continue to be impacted by the COVID-19 pandemic at the time of the Company's filing, and the Company explained that it is continuing to incur incremental levels of uncollectibles beyond the end of the historic test year.[213] Finally, Aqua noted, the Company is requesting an allowance of time for the uncollectible expense is realized in 2020 to stabilize and return back to normal in 2021 and possibly fully mitigate with a slower recovery.[214] Aqua MBE – 203.

I&E reiterates, the recent Commission Order issued in a *Pennsylvania American Water Company* proceeding[215] is not applicable to this proceeding contrary to the argument made by Aqua.[216] In PAWC the Commission did not set a hard cutoff date for the accumulation of COVID-19 pandemic-related deferrals, distinguishing the difference between that utility and Aqua.[217] The difference is that PAWC has not yet filed a base rate case since its request for deferral treatment; thus, a cutoff of the effective date of new rates in this proceeding is the appropriate cutoff.[218] Such a cutoff may potentially even

---

211 Aqua MB, p. 200.
212 *Id.*, p. 200.
213 *Id.*, p. 201.
214 *Id.*, p. 203.
215 *Petition of Pennsylvania American Water Company for Authorization to Defer and Record as a Regulatory Asset*, Docket No. P-2020-3022426 (Order Entered September 15, 2021).
216 I&E MB, p. 58.
217 *Id.*
218 *Id.*

be overstated due to the proposed implementation of a Universal Service Plan in this proceeding.[219] I&E continues to recommend its' original recommendations stated *supra*.

B. Universal Service Programs (USP)

I&E recommended acceptance of almost all of Aqua's proposed Universal Service Plan ("USP") (also referred to as CAP by the Company) with a few modifications/additions.[220] I&E recognized that as part of Aqua America, Inc.'s acquisition of the Peoples Companies,[221] Aqua agreed to propose a universal service plan, and the Commission approved, that includes "(1) a bill payment/customer assistance program; (2) a hardship fund; (3) a water conservation program; (4) a low-income service repair line and replacement program; and (5) a comparable funding mechanism that exists for electric and natural gas utilities in Pennsylvania."[222]

I&E also recommended that the Company be required to perform income verifications to admit participants into the programs to ensure legitimacy of applicants and reduce misuse of the program.[223] Further, I&E recommended that the Company be required to demonstrate effort is made to encourage participants to take advantage of the Federal Low-Income Household Water Assistance Program funds made available via the American Rescue Plan.[224] Finally, I&E recommended that Aqua should monitor

219 *Id.*
220 I&E MB, pp. 59-61.
221 *Id.*, p. 60.
222 *Id., citing* Aqua Peoples Acquisition Order, Docket No. A-2018-3006061, pp. 147-150.
223 *Id.*
224 *Id.*

available federal and state assistance programs and notify customers of all available sources of aid.[225]

The OCA[226] and CAUSE-PA[227] recommended numerous modifications to the Universal Service Plan and low-income programs proposed by the Company. Aqua evaluated the numerous modifications recommended by OCA and CAUSE-PA.[228] When evaluating some of the modifications proposed by the OCA and CAUSE-PA, the Company asked that the Commission not order Aqua to propose and support a program with which it may disagree.[229] Therefore, I&E continues to recommend that the Company's USP (CAP) program be approved as proposed along with the modifications recommended by I&E.[230]

1. Income Verification

I&E recommends that Aqua be required to perform income verifications to admit participants into the universal service and low-income programs to ensure legitimacy of the applicants and to reduce misuse of the programs.[231]

While Aqua questions whether income verification is necessary,[232] Aqua had previously acknowledged that the Dollar Energy Fund, Aqua's planned provider for administrative services, explained their estimate of the number of agents needed to

---

225 I&E MB, p. 61.
226 *See* OCA MB, pp. 117-178.
227 *See* CAUSE-PA MB, pp. 12-43.
228 *See* Aqua MB, pp. 140-161.
229 Aqua MB, p. 154.
230 I&E MB, pp. 60-61.
231 I&E MB, pp. 61-63.
232 Aqua MB, p. 150.

support the program assumed management of income documentation.[233] Therefore, there would not be a direct cost increase to the administrative estimate by modifying the program to include an income documentation requirement.[234]

I&E continues to recommend that Aqua be required to perform income verifications to admit participants into the universal service and low-income programs to ensure legitimacy of the applicants and reduce misuse of the programs.[235] Further, the program as proposed is based on a specific level of benefits matched to a specific percentage of the federal poverty level.[236]

2. Universal Service Rider – USP Cost Recovery

Aqua proposed to recover the net costs of its proposed full-scale Universal Service Plan through a reconcilable rider similar to the riders used by many of the gas and electric distribution companies.[237] Peoples Natural Gas received approval in its 2010 base rate case to implement such a rider.[238] The rider Aqua proposed is very similar in nature to the rider used by Peoples.[239] The proposed funding mechanism is a rider that tracks actual costs for recovery.[240] Aqua added, the use of the USR rider will ensure that ratepayers are only responsible for actual costs of the program, rather than projected costs that may not come to fruition if enrollment is less than expected, for example.[241]

---

233 I&E MB, p. 61.
234 *Id.*, p. 62.
235 *Id.*, p. 63.
236 *Id.*, p. 62.
237 Aqua MB, p. 155.
238 *Id.*
239 *Id.*, p. 156.
240 *Id.*
241 *Id.*

I&E does not oppose the Aqua proposal to recover the USP net costs through the proposed USR reconcilable rider.[242]

The OCA, however, continues to argue that the riders in place at the Peoples Companies are not appropriate models upon which to develop cost recovery for Aqua's low-income programs.[243] Instead the OCA recommends net cost recovery via base rates as an expense item.[244] The OCA appears to argue that the USP programs are akin to a simple line-item expense.[245]

I&E strongly opposes OCA's recommendation to recover the USP costs through base rates.[246] Instead, I&E continues to recommend that it is preferable that the costs for a full-scale universal service plan be recovered via a reconcilable surcharge mechanism like that used by the Peoples Companies that tracks dollar-for-dollar net costs.[247] And while the OCA proffers a comprehensive argument in favor of including the net costs in base rates, it appears to overlook the Aqua Peoples Acquisition Order in which the Commission agreed that a "comparable" funding mechanism as those used by the natural gas and electric distribution companies in Pennsylvania is preferable.[248] Further, the use of a rider allows actual costs to be maintained and tracked separately. The Company's proposed full-scale USP program consists of various programs, each of which need to be tracked separately to verify actual costs and participation rates versus projected costs and

242 I&E MB, pp. 63-64.
243 OCA MB, pp. 152-160.
244 *Id.*, p. 152.
245 *Id.*, pp. 156-157.
246 I&E MB, p. 64.
247 *Id.*
248 I&E MB, pp. 64-65.

participation rates.[249] I&E reiterates, the fundamental principles underlying the Competition Acts can and should be instructive in this proceeding.[250]

X. RATE STRUCTURE

I&E provided the details of its proposed rate structure for both Aqua Water and Aqua Wastewater in its main brief and I&E continues those same recommendations in this reply brief. A utility's rate structure implements the Commission's approved revenue increase to determine how the overall increase will be allocated among the utility's various rate classes.[251] Once a class revenue allocation is determined, development of a rate design will address how the tariffed rates and rate elements will generate the allocated revenues.[252] A properly designed rate structure will not unduly burden one class of ratepayers to the benefit of another.[253]

This proceeding presents some unique and difficult challenges regarding rate structure and rate design. Those challenges include Water base rates; an Act 11 subsidy applied to the Water base rates to subsidize wastewater customers; Wastewater base rates; new rate zones for numerous Section 1329[254] acquisitions; and, third-party sales rates. I&E presented a comprehensive rate structure proposal.[255] I&E attempted to balance the interests of all parties in a reasonable way, while staying as true as possible to cost-of-service based rates and recognizing the concepts of scale back and gradualism.[256]

---

249 *Id.*, p. 65.
250 *Id.*
251 I&E MB, pp. 65.
252 *Id.*
253 *Id.*
254 66 Pa. C.S. § 1329.
255 *Id.*, pp. 65-92.
256 *Id.*

Aqua,[257] the OCA,[258] and the OSBA[259] also presented comprehensive rate structure proposals. Further, Masthope[260] and Aqua LUG[261] presented targeted rate structure proposals regarding new rates for their constituents.

I&E continues to believe that its proposed rate structure and rate design is the most reasonable of all of the proposed rate structures that have been proposed by the various parties.

A. Cost of Service Study - Water

I&E presented no recommendations regarding the cost-of-service study for Aqua water operations.[262]

B. Cost of Service Studies - Wastewater

I&E continues to recommend the Company continue to combine Wastewater Zones 1 through 6 in one cost of service study.[263] I&E also continues to recommend the Company combine Wastewater Zones 7 through 11 into one cost of service study in its next base rate case[264] because these zones include systems that were acquired under Section 1329 and they represent a unique group of zones and cost recovery requirements.[265] The OCA supports this recommendation.[266] Therefore, I&E continues to recommend these zones should continue to be grouped into one cost of service study in

---

257 Aqua MB, pp. 207-268.
258 OCA MB, pp. 84-117.
259 OSBA MB, pp. 7-31.
260 Masthope MB, pp. 17-24.
261 Aqua LUG MB, pp. 6-12.
262 I&E MB, p. 66.
263 *Id.*
264 *Id.*
265 I&E MB, p. 66.
266 OCA MB, pp. 85-86.

future cases.[267] Also, I&E continues to recommend that future Section 1329 systems acquired subsequent to this rate proceeding should have a separate cost of service study when they are eventually included in an Aqua base rates case following the acquisition of those systems.[268]

C. Rate Zones – Water

Aqua's Water customer rate zones are Residential; Commercial; Industrial; Public; Other Utilities; Private Fire; and, Public Fire.[269] I&E continues to propose only a $17.22 million increase to Water customers.[270] If I&E's proposed $17.22 million increase for Water is approved, Aqua's proposed percentage increases should be scaled back to 20% of the proposed value subject to a final scale back on the final approved revenue increase to be applied to the Water customers as discussed *infra* in Section X. F. Rate Structure – Water.

D. Rate Zones – Wastewater

Aqua has eleven (11) different Wastewater rate zones, with different subsystems and eight (8) different third-party customers.[271] While a few zones have the same rates, most rates are different.[272] The residential rates vary from a flat rate of $16.09 per month in Zone 1 to $180.00 per month in Zone 5.[273] Since its last base rate case, the Company acquired the Limerick system, the East Bradford system, the Cheltenham system, the East

---

267 I&E MB, p. 66.
268 *Id.*
269 I&E MB, p. 67.
270 *Id.* *See also* I&E MB, App. A, I&E Table VII – Water – Act 11 Allocation, col. D, line 17.
271 I&E MB, p. 67, *citing* Aqua Vol. 5, Exh. 5-B, Part II.
272 *Id.*
273 *Id.*

Norriton system, and the New Garden system through separate Section 1329 proceedings.[274] These five systems became Zones 7-11.[275]

I&E agreed that given the wide variety of present wastewater rates, Aqua's proposal to continue the various rate zones is reasonable.[276] And, while the proposed rate zones are established, tweaking the rate zones and establishing the rate structure for the Wastewater rate zones was and will be the most challenging part of this base rate proceeding. I&E witness Kubas painstakingly reviewed the various applicable factors and has recommended some changes that should be made to the proposed rate zones and rates as described *infra* and in Section X. G. Rate Structure - Wastewater.[277]

First, the Company established the proposed tariff and each system falls into a zone that determines the rates the customer pays.[278] Since the Company is now proposing the same rates for Zones 1 and 2, the Company merged Zone 2 into Zone 1.[279] The proposed merger of Zone 2 into Zone 1 (with which I&E disagrees *infra*) would mean that each subsequent zone could be reclassified up one. Zone 3 customers would become Zone 2; Zone 4 customers would become Zone 3; Zone 5 customers would become Zone 4; and, Zone 6 customers would become Zone 5.[280]

I&E, however, continues to disagree and recommends that rates in Zone 2 be increased; and, as a result, Zone 2 cannot be merged into Zone 1 as proposed by the

---

274 *Id.*, p. 68.
275 *Id.*
276 *Id.*
277 *Id.*
278 *Id.*
279 *Id.*
280 *Id.*, p. 68, *citing* Aqua Vol. 1, Aqua Pa. Wastewater, Inc. Tariff Sewer Pa P.U.C. No. 3, Original pp. 5, 6.

Company.[281] Further, I&E continues to recommend that the Emlenton, Pinecrest, Rivercrest, and White Haven Division (Kidder) systems continue to be listed under Zone 2.[282] Also, if the four identified systems stay in the unmerged Zone 2, then I&E continues to recommend that the rest of the Zones be kept as existing Zones 3 through 6.[283]

Therefore, if the Commission agrees with I&E that proposed Zone 2 rates should be higher than Zone 1 rates, then Zone 2 cannot be combined with Zone 1 and existing Zones 2 through 6 will need to have separate tariff pages.[284]

E. Revenue Allocation - Generally

I&E and Aqua generally agree on the purpose of revenue allocation and the applicable methodologies available to the Commission to exercise its discretion in arriving at a final revenue allocation.[285]

1. Act 11 Subsidy

To reiterate, I&E, Aqua, OCA, OSBA and the other parties generally agree that Act 11 permits utilities that provide both water and wastewater service to combine the revenue requirements by allocating a portion of the wastewater revenue requirement to the water customer base if doing so is in the "public interest."[286] Section 1311(c), however, does not specify how the Commission should determine rates, nor does it

---

[281] *Id.*, p 69.
[282] *Id.*
[283] *Id.*
[284] *Id.*, *citing* I&E St. No. 5, p. 65; I&E St. No. 5-SR, p. 32.
[285] I&E MB, p. 69; Aqua MB, pp. 211-213.
[286] I&E MB, p. 70; Aqua MB, pp. 213-215; OCA MB, pp. 86-96; OSBA MB, pp. 9-30.

dictate the percent or amount of revenue that should be allocated or shifted, leaving the Commission wide latitude in applying Act 11.[287]

One of the controlling and most difficult issues to be decided in this proceeding is how much of the revenue requirement for Wastewater should be moved over and placed on the Water customers.

Aqua continues to propose that $20,839,425 of the Wastewater revenue requirement be moved over onto the Water customers.[288] As I&E explained in its main brief, the Company's proposed Act 11 subsidy is too high and is not reasonable.[289] I&E witness Kubas applied his knowledge and experience in rate making design and revenue allocation to craft a rate design with an Act 11 subsidy from Aqua Wastewater to Aqua Water that both respects cost of service principles and is in the public interest.[290] I&E strongly urges the Commission to accept I&E's final Act 11 subsidy recommendation of $10,439,352.[291]

2. Revenue Allocation – Water - Wastewater

In consideration of all of the above and the record evidence presented by I&E, I&E continues to recommend the revenue allocations, after applying Act 11, as shown on App. A, I&E Table VII – Water – Act 11 Allocation on line 15, Proposed Revenues,

---

[287] *Ratemaking Guide*, p. 141.
[288] Aqua MB, p. 225.
[289] I&E MB, p. 70, *citing* I&E St. No. 5; I&E St. No. 5-R; and I&E St. No. 5-SR.
[290] *Id.*
[291] I&E MB, p. 70. *See also* I&E MB, App. A, I&E Table VII – Water – Act 11 Allocation, col. D, line 13.

attached to I&E's Main Brief.[292] The Company's proposed revenue allocation is not reasonable and should be rejected.[293]

3. Scale Back of Rates – Water - Wastewater

Water – To reiterate, if the Commission grants an increase less than the amount the Company requested, the Company's proposed rates should be reduced, or scaled back, to produce the revenue requirement allowed by the Commission.[294] Further, the revenue requirements and scale backs of the wastewater operations must be determined prior to the application of a scale back to the water operations rates.[295] The Wastewater operations revenue requirement must be set first because that will determine the amount of Act 11 subsidy revenue requirement to be allocated to Water operations.[296] Once the Act 11 wastewater to water subsidy allocation is determined by the Commission, then the full revenue requirement to be placed on Water operations can be determined and those rates can then be scaled back.[297]

Wastewater - I&E continues to recommend that no scale back of wastewater rates should occur until the total Act 11 wastewater subsidy is eliminated.[298] To determine if any subsidy remains, the Company must recalculate the subsidies and determine the total wastewater subsidy after the Commission order is entered.[299] I&E continues to assert that it is in the public interest to reduce the Act 11 subsidy being provided to wastewater

---

292 *Id.*
293 *Id.*, p. 71.
294 I&E MB, p. 71.
295 *Id.*
296 *Id.*
297 *Id.*
298 *Id.*
299 *Id.*

customers from the water customers as much as possible.[300] Further, all wastewater customers in all rate zones should contribute to reduce and eliminate the overall wastewater subsidy, especially those that are currently paying below cost-of-service rates.[301] The total wastewater subsidy must be considered, rather than the subsidy in the individual zones.[302] This is especially important in Zones 7 through 11 where the Section 1329 Applications stated there would be no short-term harm to existing customers and that the municipalities and the customers in these Zones benefited from the acquisition by Aqua.[303] Until the total subsidy is eliminated, I&E continues to recommend that wastewater rates should not be scaled back.[304]

I&E adds that if the total wastewater subsidy is eliminated, then the new rates can be scaled back.

Finally, it is generally accepted that gradualism is a well-established ratemaking concept that seeks to limit the immediate increases customers receive when rates are increased and instead seeks to implement a necessary significant rate changes on a more gradual basis over time. If the Commission should approve a rate increase, then the Commission has the discretion to apply the concept of gradualism if the rate increase would result in a sudden and excessive increase that would violate the concept of gradualism.[305]

---

300 *Id.*, pp. 71-72.
301 *Id.*, p. 72.
302 *Id.*
303 *Id.*
304 *Id.*
305 *Id.*, pp. 72-73.

F. Rate Structure - Water

The Company proposed a total revenue increase of $97.68 million across all of the Company's water and wastewater customers. Of that, the Company proposed that $86.12 million would be applied to its water customers.[306]

I&E continues to propose a total revenue increase of $33,909,310 million across all water and wastewater customers.[307] Of that, I&E proposes that $17,222,604 million would be applied to its water customers.[308] That translates to only a 20% increase for water customers as compared to the Company's proposal for water customers ($17.22 ÷ $86.12 = 0.20).[309] As a result, the Company's proposed percentage increases to the Water customer classes should all be scaled back to 20% of the Company's original proposed percentage increases.[310]

G. Rate Structure - Wastewater

The arriving at the final rate structure for the various wastewater rate classes, along with determining the Act 11 subsidy, are the two most difficult decisions that confront the parties, the ALJ, and the Commission in this proceeding. I&E provided a comprehensive summary of its proposed wastewater rate structure that was presented in greater detail in its preserved testimony and exhibits.[311] I&E witness Joseph Kubas detailed I&E's proposed wastewater rate design in his direct and surrebuttal testimony

---

306 Aqua Vol. 1, Statement of Specific Reasons for Proposed Rate Increase, p.1.
307 I&E MB, p. 73.
308 *Id. See also* I&E MB, App. A, I&E Table VII – Water – Act 11 Allocation, col. D, line 17.
309 *Id.*
310 *Id. See also* I&E MB, Section X. C. Rate Zones – Water, *supra*.
311 I&E MB, pp. 74-92.

and accompanying exhibits.[312] Mr. Kubas performed a comprehensive review of the parties direct and rebuttal testimonies and compiled an updated summary of I&E's wastewater revenue recommendation.[313] But, in order to arrive at a final proposed wastewater rate structure, I&E first had to calculate a final Act 11 subsidy to be shifted to the water customers, and as stated *supra*, I&E continues to recommend that the Act 11 subsidy be set at $10,439,352 in this proceeding.[314] The following is a summary of I&E's proposed wastewater rate structure as presented in I&E's Main Brief.

1. Zones 1 through 6 - Wastewater - Summary

The Company provided one cost of service study for Zones 1-6[315] and the revenue shortfall for Zones 1-6 alone is approximately $13.452 million.[316] I&E calculated, based upon the number of customers in each system, wastewater customers comprise only 8.5% of all Aqua customers, therefore, over 91% of Aqua water customers are not wastewater customers.[317]

I&E's goal for Zones 1 through 6 was to reduce the $13.4 million subsidy needed to operate these wastewater zones.[318] I&E noted that the average bill is lower in Zones 1 and 6 than it is for Zones 2 through 5.[319] Therefore, I&E continues to propose a larger percentage increase in Zones 1 and 6 as compared to Zones 2 through 4. With respect to

[312] *Id.*, p. 74.
[313] *Id. See also* I&E St. No. 5-SR, pp. 4-25; I&E Exh. No. 5-SR, Sch. 1.
[314] I&E MB, p. 70.
[315] *Id.*, p. 74. *See also* Aqua Vol. 5, Exh. 5-B, Part I.
[316] *Id.*, pp. 74-75. *See also* Aqua Vol. 5, Exh. 5-A, Part I, Sch. A-WW.
[317] *Id.*, p. 75.
[318] *Id.*
[319] *Id.*

Zone 5, I&E accepted the Company's proposed rates.[320] I&E made these recommendations because under one cost of service study for Zones 1 through 6, there is no justification for such a wide variety in rates and corresponding average bills; and, the Company did not rebut this argument.[321] Also, I&E continues to recommend monthly customer charges and usage rates that will limit the increase to the average Residential usage customer to less than 53%.[322] Finally, I&E does not object to the OCA proposal to increase revenue in Zones 1-6 by approximately $900,000 more than I&E.[323]

2. Zone 1 – Wastewater

I&E continues to recommend rates for Zones 1 as shown on I&E Exh. No. 5, Sch. 2 page 1 under columns F and L.[324] The average bills for usage customer under present and proposed rates are shown on I&E Exh. No. 5, Sch. 2 pages 2-4 line 5.[325]

The rates I&E is recommending were established so that the average Zone 1 customer receives an increase of slightly below 40% in this case.[326] Additionally, in order to consolidate rates, Zone 1-A customers will need to experience a slightly larger increase than the average Zone 1 customer to equalize the usage rates.[327] Also, in order to consolidate these rates, Zone 1-B customers will need to experience a slightly larger

[320] *Id.*
[321] *Id.*
[322] *Id.*, pp. 75-76.
[323] I&E MB, p. 76.
[324] *Id.*
[325] *Id.*
[326] *Id.*
[327] *Id.*

increase than the average Zone 1 customer.[328] Finally, I&E continues to disagree with the OCA proposal to limit the Zone 1 customer charge to $31.00 per month.[329]

3. Zone 2 – Wastewater

Zone 2 – Main. The I&E recommended rates for Zone 2 – Main customers are set forth on I&E Exh. No. 5, Sch. 3, p. 1, column F.[330] The average present and proposed bill for an average Residential customer in Zone 2 is shown on I&E Exh. No. 5, Sch. 3, p. 2, line 5.[331] I&E recommends that Zone 2 rates be increased in order to reduce Aqua's proposed Act 11 subsidy.[332] The Zone 2 - Main rates I&E continues to recommend were established so that the average Zone 2 customer receives an increase of slightly below 40% in this case.[333]

Zone 2 – Pinecrest. For Zone 2 -Pinecrest, the Company proposed to keep the rate at the current $3.00 per hundred gallon present and proposed Zone 2 - Pinecrest rate.[334] I&E continues to recommend that the Company's proposed (same as current) rate be approved.[335] Additionally, I&E also recommends that the Company begin to convert these customers to a typical monthly customer charge and usage rate in its next base rate proceeding.[336]

---

328 *Id.*
329 *Id.*
330 I&E MB p. 77.
331 *Id.*
332 *Id.*
333 *Id.*
334 *Id.*
335 *Id.*
336 *Id.*

4. Zone 3 – Wastewater

Zone 3 – Main. I&E continues to recommend rates for Zone 3 - Main customers as listed on I&E Exh. No. 5, Sch. 4, p. 1, col. F, lines 1-4.[337] The present and proposed average bill for an average Residential customer in Zone 3 - Main is shown on I&E Exh. No. 5. Sch. 4, p. 2, line 5.[338] The rates I&E continues to recommend were established so that the average Zone 3 – Main customer receives an increase of slightly below 30% in this case, which is higher than the Company's proposed average increase of approximately 20%.[339]

Zone 3 – Woodloch Springs. I&E accepted the proposed rate structure based upon an EDU.[340] However, I&E continues to recommend that Aqua's proposed monthly unmetered charge of $101.03 per month be increased to $109.00 per month to match the other Zone 3 unmetered rate.[341] This $109.00 per EDU is the same $109.00 unmetered charge shown on I&E Exh. No. 5, Sch. 4, col. F, lines 3-4. I&E's revised recommendation produces $2,764 more revenue than I&E originally proposed for Zone 3 – Woodloch Springs.[342] The additional proposed revenue is included in the $5,365,264 proposed commercial revenue.[343]

---

337 I&E MB, p. 78.
338 *Id.*
339 *Id.*
340 *Id.*, pp. 78-79.
341 *Id.*, p. 79.
342 *Id.*
343 *Id.*, *citing* I&E Exh. No. 5-SR, Sch. 1, p. 1 col. H.

5. Zone 4 – Wastewater

Zone 4 includes the former Honeycroft Village, Lake Harmony, New Daleville, Peddlers View, Tobyhanna, and Twin Hills divisions.[344] I&E continues to recommend rates for Zone 4 customers as listed on I&E Exh. No. 5, Sch. 4, p. 1, col. F, lines 7-11.[345] The bill for an average Residential customer in Zone 4 will increase from $102.01 per month to $127.39 per month, which is an increase of $25.38 per month or 24.9%.[346]

6. Zone 5 – Wastewater

Zone 5 includes the former Avon Grove School, East Bradford - Brandywine, Little Washington, Greens at Penn Oaks, Sage Hill, Plumsock, and Newlin Green Divisions.[347] In its proof of revenue, the Company grouped the first six (6) systems into "Zone 5 – Main" and separated Newlin Green into "Zone 5 – Newlin Green".[348]

Zone 5 – Main. I&E continues to recommend that the Company's proposed rates for Zone 5 – Main be approved.[349]

Zone 5 – Newlin Green. The Company proposed to reduce the bill for an average Residential customer in Zone 5 – Newlin Green by 4.4%.[350] I&E continues to recommend that the Company's proposed rates for Zone 5 – Newlin Green be approved.[351]

---

344 *Id.*, *citing* Aqua Vol. 5, Exh. 5-B, Part II, Sch. WW-5, p. 10.
345 I&E MB, p. 79.
346 *Id.*
347 *Id.*, p. 80.
348 *Id.*, *citing* Aqua Vol. 5, Exh. 5-B, Part II, Sch. WW-5, p. 11, col. 4.
349 *Id.*, *citing* I&E Exh. No. 5, Sch. 5, p. 1, col. 5.
350 *Id.* p. 80.
351 *Id., citing* I&E Exh. No. 5, Sch. 5, p. 1, col. F.

7. Zone 6 – Masthope

The Company proposed to increase the current customer charge, flat rate, and usage rates in Zone 6 – Masthope.[352] Under Aqua's proposed rates, the bill for an average Residential customer in Zone 6 will increase from $45.51 per month to $54.77 per month, which is an increase of $9.27 per month or 20.4%.[353]

I&E continues to recommend rates for Zone 6 customers as set forth on I&E Exh. No. 5, Sch. 5, p. 1, col. F, lines 13-19 and described in I&E witness Kubas direct testimony.[354] The rates I&E recommends were established so that the average Zone 6 customer receives an increase of slightly below 45% in this case.[355]

Masthope argues that I&E's proposal reduces Aqua's water revenue support requirement; reduces water customer burdens by $1/month while increasing wastewater customer burdens by $10/month; doubles the average increase design of 26.4% that Aqua proposed for the Masthope wastewater rates in Zone 6/5; and increases in consumption charges contained in the Zone 6/5 by 150%.[356] Masthope argues further, the Act 11 subsidy adjustments proposed by I&E and (to a lesser extent) OCA result in unjust and unreasonable rates that, if adopted, would disproportionately and negatively affect Masthope wastewater customers.[357]

---

352 I&E MB, p. 81.
353 *Id.*
354 *Id. See also*, I&E St. No. 5, pp. 32-34.
355 I&E MB, p. 81.
356 Masthope MB, p. 20.
357 *Id.*

I&E rejects Masthope's arguments because Masthope is only looking at its proposed rates in isolation.[358] Aqua's wastewater rate structure and Act 11 subsidy are complex and have many moving parts. I&E continues to assert that Masthope failed to show how the Zone 6 rates that I&E proposed are excessive or overly burdensome when compared to the rates and average bills in other zones, or why Zone 6 rates should not be increased.[359] Further, Masthope fails to consider that rates in Zones 1 through 6 should/will eventually be consolidated since these zones are all included in one cost of service study.[360] Finally, I&E's analysis shows the I&E proposed rates and average bills for Zone 6 customers are reasonable.[361]

8. Zones 7-11 Summary

To summarize, the Limerick system became Zone 7, the East Bradford system became Zone 8, the Cheltenham system became Zone 9, the East Norriton System became Zone 10, and the New Garden System became Zone 11.[362] The Company provided a separate cost of service study for each Zone 7 through 11; and the cost-of-service studies illustrate the sizeable revenue shortfall under the Company's proposed rates which Aqua is unreasonably requesting be subsidized by Aqua Water customers.[363]

I&E continues to recommend adjustments to rates in Zone 7 through 11 to reduce the subsidy, simplify the rate structure, and limit the increase to Zone 7 flat rate

---

358 I&E MB, pp. 81-82.
359 *Id.*
360 *Id.*, p. 82.
361 *Id.*
362 *Id.*
363 *Id.*

customers and certain Zone 11 usage blocks.[364] Overall, I&E recommends reducing the $7,397,967 Zone 7-11 subsidy.[365]

I&E supported its rate structure proposals in Zones 7 through 11 by asserting that, in each Section 1329 acquisition, the municipalities benefited by selling the system and therefore the municipal customers benefited by the sale.[366] I&E continues to argue that acquiring these systems should not harm existing Aqua customers; and I&E's proposed increase in rates in Zones 7 through 11 will limit the harm to other Aqua customers by reducing the subsidy paid by other non-Zones 7-11 customers.[367]

I&E recognizes that it would be mathematically possible to eliminate the Act 11 subsidy in this proceeding; but, eliminating the entire subsidy would result in very large increases to the monthly customer charges, usage rates, unmetered rates, and average bills for both residential and Commercial customers in Zones 7 through 11.[368] Therefore, I&E tempered its proposed increases and recommended rates so that the average Residential bill increase is limited to generally less than 100%.[369] Each rate Zone 7 through 11 is addressed individually below.

---

364 *Id.*, pp. 82-83.
365 *Id.*, p. 83, *citing* I&E Exh. No. 5-SR, Sch. 1, p. 3.
366 *Id.*
367 *Id.*
368 *Id.*, pp. 83-84.
369 *Id.*, p. 84.

9. Zone 7 – Limerick

Aqua proposed a bill for an average Residential customer in Zone 7 - Limerick increase from $37.69 per month to $70.43 per month, which is an increase of $32.74 per month or 86.9%. [370]

I&E continues to recommend the rates for Zone 7 customers as set forth on I&E Exh. No. 5, Sch. 6, p. 1, col. F, lines 1-7.[371] Under the I&E rates, the bill for an average Residential customer in Zone 7 will increase from $37.69 per month to $71.32 per month, which is an increase of $33.63 per month or 89.2%.[372]

Additionally, I&E does not object to the OCA proposal to increase revenue in Zone 7 by approximately $2,205,119 more than the $2,982,144 that I&E recommended.[373] Further, I&E does not oppose the OCA proposal to limit the increase in the Zone 7 residential customer charge to $31.00 per month (I&E recommended $39.50) and recommends, if the Commission approves the $31.00 per month residential customer charge it should also apply the $31.00 monthly customer charge to the other classes.[374]

---

[370] I&E MB, pp. 84-85.
[371] *Id.,* p. 85. *See* I&E St. No. 5, pp. 39-40 for a full discussion.
[372] *Id.*
[373] *Id.*
[374] *Id.*

10. Zone 8 – East Bradford – Residential

In order to generate revenue and charge all unmetered Zone 8 customers the same rate, I&E continues to recommend that the 19 townhouse customers be billed $100.00 per month.[375]

Additionally, I&E does not oppose the OCA proposal to increase revenue in Zone 8 - Residential by approximately $222,489 more than the $610,765 that I&E proposed.[376] Further, I&E does not oppose the OCA proposal to establish a residential customer charge of $68.09 per month (I&E recommended $55.00) for Zone 8 residential.[377]

11. Zone 8 – East Bradford – Commercial and Public.

I&E continues to recommended rates for Zone 8 Commercial customers as listed on I&E Exh. No. 5, Sch. 6, p. 1, Column F, lines 12 and 14.[378] I&E accepts the Company's proposed monthly customer charge of $39.10 per month.[379] However, I&E increased the Commercial class usage rate to $1.120 per hundred gallons to match the Residential usage rate.[380]

12. Zone 9 – Cheltenham

I&E continues to recommend rates for Zone 9 customers as listed on I&E Exh. No. 5, Sch. 7, p. 1, col. F, lines 1-2.[381] The revenue shortfall for Cheltenham under proposed rates is $515,804.[382] The I&E rates were established so that Zone 9 customers

---

375 I&E MB, p. 86, *citing* I&E Exh. No. 5, Sch. 6, p. 1, line 9.
376 *Id.*
377 *Id.*
378 *Id.*
379 *Id.*
380 *Id.*, *citing* I&E Exh. No. 5, Sch. 6, p. 1, lines 12, 14.
381 *Id.*, p. 87.
382 *Id.*

provide a subsidy of approximately 10% of the cost of service to subsidize the other wastewater systems where revenue shortfalls exist.[383] I&E reasoned, each wastewater system should provide as much revenue as reasonably possible to reduce the total wastewater subsidy coming from Aqua Water customers even if the revenue is above the cost of providing service to that zone.[384] It is more reasonable to recover the wastewater revenue shortfall from other wastewater customers rather than water customers since the wastewater rates are causing the revenue shortfall.[385] In fact, if the increase and average bill of system is comparable to other systems, like they are for Zone 9, the rates in Zone 9 should be established to reduce the overall wastewater subsidy and reduce the increase to water customers.[386]

13. Zone 10 – East Norriton

I&E continues to recommend rates for Zone 10 - East Norriton customers as listed on I&E Exh. No. 5, Sch. 7, p. 1, col. F, lines 3-5.[387] Additionally, I&E does not oppose the OCA's proposal to increase revenue in Zone 10 by approximately $1,259,223 more than I&E to $2,787,619.[388] Further, I&E does not oppose the OCA proposal to limit the increase in the Zone 10 customer charge to $31.00 per month.[389]

---

[383] *Id.*
[384] *Id.,* p. 88.
[385] *Id.*
[386] *Id.*
[387] I&E MB, p. 89.
[388] *Id.*
[389] *Id.*

14. Zone 10 – Whitpain

I&E continues to recommend rates for Zone 10 - Whitpain customers as listed on I&E Exh. No. 5, Sch. 7, p. 1, col. F, lines 6-11.[390] I&E recommends a larger percentage increase for Zone 10- Whitpain for three reasons.[391] First, the beginning bill of $31.66 per month is the lowest average bill for all zones.[392] Therefore, in order to move the average bill closer to other average bills, a larger percentage increase is necessary.[393] Second, the Company's desire to consolidate all Zone 10 rates justifies the higher rates for Zone 10 - Whitpain in order to move toward matching the Zone - 10 Norriton rates.[394] Third, even with the higher proposed rates causing a higher than average increase for Zone 10 - Whitpain, total Zone - 10 operations will still continue to need $1,378,735 of subsidy from Water customers.[395]

15. Zone 11 – New Garden

I&E continues to recommend rates for Zone 11 – New Garden customers as listed on I&E Exh. No. 5, Sch. 8, p. 1, column F.[396] I&E's recommendation includes the elimination of the Zone 11 usage allowance.[397] As part of the Zone 11 rate proposal, I&E originally proposed a monthly charge of $63.00 per month, but the OCA recommended a customer charge of $37.64 per month.[398] I&E lowered its proposed Zone 11 residential

---

390 *Id.*
391 *Id.*
392 *Id.*
393 *Id.*
394 *Id.*
395 I&E MB, pp. 89-90.
396 *Id.*, p. 90.
397 *Id.*
398 *Id.*

customer charge to $43.00 per month.[399] As a result, I&E recommends the bill for an average Residential customer in Zone 11 – New Garden increase from $68.48 per month to $124.39 per month, which is an increase of 81.7%.[400]

I&E also revised its original recommendation and now recommends that the present commercial charge be increased to $60.20 per month rather than the $88.20 per month I&E recommended in direct testimony.[401] Also, I&E recommends increasing the present commercial Group 1 customer charge from $52.71 per month to the proposed customer charge of $60.20 per month which equates to an increase of 14.2%.[402] The 14.2% increase is the same percentage increase I&E recommends for the Zone 11 residential customer charge.[403]

Additionally, I&E recommends eliminating the usage allowance.[404] Under the I&E proposal, the difference between the proposed usage rates is $0.975 ($2.600 - $1.625) per hundred gallons, while the difference between the usage rates proposed by the Company is $2.6999 ($2.6999 - $0.000) per hundred gallons.[405] A smaller difference in the usage rates in this case will make consolidating the usage rates into one Residential usage rate easier in the next base rate case.[406]

---

399 *Id.*
400 *Id.*
401 I&E MB, p. 91.
402 *Id.*
403 *Id.*, *citing* I&E Exh. No. 5-R, Sch. 2, p. 1, lines 1-13.
404 Id., citing I&E St. No. 5, pp. 55-56.
405 *Id.*
406 *Id.*

Finally, I&E does not oppose the OCA proposal to increase revenue in Zone 11 by approximately $412,279 more than I&E resulting in a total increase of $1,795,825.[407]

XI. TARIFF PROPOSALS

A Purchased Water Adjustment (PWA) Clause

I&E continues to recommend that the proposed PWA clause be rejected.[408] Further, this issue was also discussed in Section VI. C. Purchased Water Expense *supra*.

The Company repeated the arguments in its main brief that it proffered in preserved testimony.[409]

I&E addressed these arguments in its preserved testimony and main brief.[410] I&E asserted the proposed PWA is not supported by substantial evidence, it circumvents the normal rate case procedure, and purchased water expense is not volatile and is minimal compared to all other expenses.[411] I&E continues to argue the Company has unreasonably requested an exception to the normal rate making treatment for purchased water expense by requesting that future increases be automatically recovered through a reconcilable surcharge.[412] In the past, the Commission has only granted surcharge treatment to an expense item when it was demonstrated that the expense in question was volatile or unpredictable and the level of the expense were significant when compared to

---

407 I&E MB, p. 92.
408 I&E MB, pp. 92-93.
409 Aqua MB, pp. 248-255.
410 I&E MB, pp. 92-93.
411 *Id.*, p. 92.
412 *Id.*, pp. 92-93.

total O&M expenses (including depreciation expense).[413] Here, Aqua has not presented any such evidence.[414]

The proposed PWA unfairly shifts costs from contract customers to tariff rate customers.[415] Further, since the proposed PWA would only apply to tariff rate customers and not rider rate customers, the proposed PWA is discriminatory to tariff rate customers as only tariff rate customers would pay for any actual increase in purchased water costs, including the cost increase directly related to purchased water delivered to rider rate customers.[416] The proposed PWA will require tariff rate customers to pay for all increases in the cost of purchased water, when some of that purchased water is being used to supply contract customers, who will not be subject to the proposed PWA.[417] Finally, I&E recommends that the proposed Purchased Water Adjustment tariff provision be rejected in its entirety.

B. Energy Cost Adjustment Mechanism (ECAM)

I&E continues to recommend that the ECAM proposed by the Company to recover routine O&M expenses via a reconcilable rider is inappropriate and should be rejected in its entirety.[418] This issue was addressed at length by I&E witnesses Wilson[419] and Sakaya.[420]

---

413 *Id.*, p. 93.
414 *Id. See* I&E St. No. 3, pp. 11-19; I&E St. No. 3-SR, pp. 7-8 for a full discussion of the PWA issue.
415 I&E MB, p. 93.
416 *Id.*, pp. 92-93.
417 *Id.*, p. 93.
418 I&E MB, pp. 95-96.
419 I&E St. No. 1, pp. 49-53; I&E St. No. 1-SR, pp. 61-68.
420 I&E St. No. 3, pp. 19-24; I&E St. No. 3-SR, pp. 8-13.

Aqua reiterated the arguments it proffered in preserved testimony.[421] Further, Aqua, failed to clearly explain how its claim for recovery of a routine operating expense through the ECAM mechanism would be appropriate.[422] Aqua continues to ignore the fact that the other utilities to which it refers are energy companies, and those energy costs are pass-through gas and electric commodity costs, not expenses for energy consumed by those utilities during routine operations.[423] Additionally, since the proposed ECAM would only apply to tariff rate customers and not rider rate customers, the proposed ECAM is discriminatory to tariff rate customers.[424] Furthermore, the Company's energy cost expense is not significantly volatile, nor is it a large enough expense to represent an extraordinary impact to the Company's operational output.[425] Finally, I&E reiterates, the Company's argument that it reports earnings on a quarterly basis negates the single-issue nature of the ECAM fails.[426] The proposed ECAM surcharge would benefit Aqua by increasing revenue in lockstep with expense increases for specific individual expenses without allowing a comprehensive examination of all expenses and revenues as occurs in a base rate case.[427] The proposed ECAM surcharge should be rejected, as it circumvents the normal rate case process that allows all changes to be evaluated simultaneously. The isolation of this one type of operating expense for dollar-for-dollar recovery via a

---

421 Aqua MB, pp. 255-259.
422 *Id.*
423 I&E MB, p. 94.
424 *Id.*, p. 95.
425 *Id.*
426 *Id.*
427 *Id.*

reconciling surcharge is inappropriate and the proposed Energy Cost Adjustment Mechanism should be rejected in its entirety.[428]

XII. CONCLUSION

I&E respectfully submits that, for all the reasons presented in I&E's Main Brief and this I&E Reply Brief, Aqua has not met its burden of proof as the record evidence presented by Aqua does not substantiate a revenue increase of $97.6 million. Instead, based on the weight of the record evidence, Your Honor and the Commission should only grant Aqua the I&E recommended revenue increase of $33.9 million in accordance with the record evidence presented by I&E and summarized in I&E's Main Brief and the appended I&E Tables and this I&E Reply Brief.

Respectfully submitted,

Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 63641

Dated: January 21, 2022

[428] *Id.*

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos.: R-2021-3027385
	:	R-2021-3027386
Aqua Pennsylvania, Inc. and	:	
Aqua Pennsylvania Wastewater, Inc.	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Reply Brief** dated January 21, 2022, in the manner and upon the persons listed below:

Served via First-Class and Electronic Mail

Administrative Law Judge Mary D. Long
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place
301 5th Avenue, Suite 220
Pittsburgh, PA 15222
malong@pa.gov

Served via Electronic Mail Only

Paul Zander
Matthew Lamb
Marc Hoffer
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services
pzander@pa.gov
mlamb@pa.gov
mhoffer@pa.gov

Michael W. Hassell, Esq.
Garrett P. Lent, Esq.
Post & Schell P.C.
17 North Second Street
Harrisburg, PA 17101-1601
mhassell@postschell.com
glent@postschell.com

Kimberly A. Joyce, Esq.
Mary McFall Hopper, Esq.
Alexander R. Stahl, Esq.
Aqua Pennsylvania
762 W. Lancaster Avenue
Bryn Mawr, PA 19010
kajoyce@essential.co
mmhopper@aquaamerica.com
astahl@aquaamerica.com
Counsel for Aqua Pennsylvania

John W. Sweet, Esq.
Ria M. Pereira, Esq.
Elizabeth R. Marx, Esq.
Lauren Berman, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Steven C. Gray, Esq.
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
sgray@pa.gov

Harrison W. Breitman, Esq.
Lauren E. Guerra, Esq.
Erin L. Gannon, Esq.
Christy M. Appleby, Esq.
Christine Maloni Hoover, Esq.
Mackenzie C. Battle, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
OCAAqua2021@paoca.org

George A. Bibikos, Esq.
GA Bibikos LLC
5901 Jonestown Road #6330
Harrisburg, PA 17112
gbibikos@gabibikos.com
Counsel for Masthope Mountain Community Association

Adeolu A. Bakare, Esq.
Charis Mincavage, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
abakare@mcneeslaw.com
cmincavage@mcneeslaw.com
Counsel for Aqua Large Users Group

Terry Fought, P.E.
780 Cardinal Drive
Harrisburg, PA 17111
OCAAqua2021@paoca.org
Consultant for OCA

David J. Garrett
Resolve Utility Consulting, PLLC
101 Park Avenue, Suite 1125
Oklahoma City, OK 73102
OCAAqua2021@paoca.org
Consultant for OCA

Roger D. Colton
Fisher Sheehen & Colton
34 Warwick Road
Belmont, MA 02478
OCAAqua2021@paoca.org
Consultant for OCA

Barbara Alexander
Barbara Alexander Consulting, LLC
83 Wedgewood Drive
Winthrop, ME 04364
OCAAqua2021@paoca.org
Consultant for OCA

Brian Kalcic
Excel Consulting
225 S. Meramec Avenue, Suite 720
St. Louis, MO 63105
excel.consulting@sbcglobal.net
Consultant for OSBA

Robert Rosenthal
R.A. Rosenthal, Inc.
524 Strathmore Drive
Mechanicsburg, PA 17050
ask-rosey@comcast.net
Consultant for Masthope Mountain Community Association

John Day
614 Runyon Avenue
Piscataway, NJ 08854
john@johnday.us

Richard J. Gage
120 Treaty Drive
Chesterbrook, PA 19087
brittagage@aol.com

Francine Weiner
1903 2nd Street
Langhorne, PA 19047
fhwhome@gmail.com

Scott B. Granger

Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 63641
(717) 425-7593
sgranger@pa.gov