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May 24, 2023

By Electronic Filing

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

RE: Application of Community Utilities of Pennsylvania Inc.; Docket Nos. A-2022-3036744 (wastewater) and A-2022-3036745 (water) (consolidated); **JOINT PETITION FOR FULL SETTLEMENT**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Joint Petition for Full Settlement in the above-captioned proceeding.

If you have any questions regarding this filing, please contact me.

Very truly yours,

/s/ Whitney E. Snyder

Thomas J. Sniscak
Whitney E. Snyder
Phillip D. Demanchick Jr.

*Counsel for
Community Utilities of Pennsylvania Inc.*

WES/das
Enclosure

cc: Administrative Law Judge Mary D. Long (malong@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Community Utilities	:	Docket No. A-2022-3036745
of Pennsylvania Inc., for Certificates	:	(Water)
of Public Convenience under	:	
Sections 1102(a)(3) and 1103 of the	:	Docket No. A-2022-3036744
Public Utility Code And All Other	:	(Wastewater)
Approvals Necessary Under the	:	
Public Utility Code for Approval of	:	
a Merger of Equals Transaction	:	
	:	

JOINT PETITION FOR FULL SETTLEMENT

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LIST OF ACRONYMS

“ALJ Long”	Administrative Law Judge Mary Long
“Application”	Application of Community Utilities of Pennsylvania Inc., for Certificates of Public Convenience under Sections 1102(a)(3) and 1103 of the Public Utility Code And All Other Approvals Necessary Under the Public Utility Code for Approval of a Merger of Equals Transaction
“Board”	The Board of directors of the combined company
“CII”	Corix Infrastructure Inc.
“Commission” or “PUC”	Pennsylvania Public Utility Commission
“Corix Parties”	CII and Corix US
“Corix US”	Corix Infrastructure (US) Inc.
“CUPA”, “Company”, or the “Applicant”	Community Utilities of Pennsylvania Inc.
“FPL”	Federal Poverty Level
“IIF Subway”	IIF Subway Investment LP
“Notice”	Publication of notice of the Application
“OCA”	Office of Consumer Advocate
“OSBA”	Office of Small Business Advocate
“Proposed Transaction”	The proposed merger of SWMAC and Corix US and the creation of Intermediate Newco, a holding company that will be a subsidiary of the newly merged SWMAC and Corix US (with Corix US being the surviving entity) that will acquire indirect control of CUPA
“Settlement”	Settlement of all issues in the above-captioned proceedings
“SouthWest”	SouthWest Water Company
“SWMAC”	SW Merger Acquisition Corp.

TO ADMINISTRATIVE LAW JUDGE MARY LONG:

Community Utilities of Pennsylvania Inc. (“CUPA”, “Company”, or the “Applicant”), Corix Infrastructure (US) Inc. (“Corix US”), and SW Merger Acquisition Corp. (“SWMAC”), and the Office of Consumer Advocate (“OCA”), by their respective counsel and collectively referred to as “Joint Petitioners,” submit and join in this Joint Petition for Full Settlement in the above-captioned proceeding. The Office of Small Business Advocate (“OSBA”) does not oppose the Settlement.

Joint Petitioners respectfully request that Administrative Law Judge Mary Long (“ALJ Long”) and the Pennsylvania Public Utility Commission (“Commission” or “PUC”): (1) approve the Settlement and all terms and conditions without modification, including the proposed findings of fact, conclusions of law, and ordering paragraphs herein; and (2) find that the terms of the Settlement are in accordance with the law and are in the public interest.

Joint Petitioners have agreed to a Settlement of all issues in the above-captioned proceedings (“Settlement”). The Settlement provides for the approval of the Application of Community Utilities of Pennsylvania Inc., for Certificates of Public Convenience under Sections 1102(a)(3) and 1103 of the Public Utility Code And All Other Approvals Necessary Under the Public Utility Code for Approval of a Merger of Equals Transaction (“Application”), as modified by the terms and conditions of the Settlement.

I. STIPULATIONS OF FACT AND PROPOSED FINDINGS OF FACT

A. PROCEDURAL HISTORY

1. On November 9, 2022, CUPA filed the Application.¹ CUPA seeks Commission approval for a change of indirect control of CUPA - Water and Wastewater Divisions as a result of the proposed merger of SWMAC and Corix US and the creation of Intermediate Newco, a holding company that will be a subsidiary of the newly merged SWMAC and Corix US (with Corix US being the surviving entity) and will acquire indirect control of CUPA (“Proposed Transaction”). CUPA indicates in its Application that the Proposed Transaction will serve to create a larger, stronger water and wastewater company.

2. On November 14, 2022, the Commission issued a Secretarial Letter which, among other things, acknowledged receipt of the filing of the Application and directed CUPA to publish notice of the proceeding in a newspaper of general circulation in CUPA’s service territory (“Notice”) and file a proof of publication on or before December 12, 2022. The Secretarial Letter also advised that the Notice of the filing of the proceeding would appear in the Saturday, November 26, 2022, issue of the Pennsylvania Bulletin. The Notice set a deadline of on or before December 12, 2022, for the filing of formal protests and petitions to intervene in this proceeding. On December 7, 2022, CUPA filed a Proof of Publication providing affidavits evidencing publication of the Notice.

3. On December 12, 2022, the OCA filed a Protest pursuant to 52 Pa. Code § 5.51, *et seq.*, and a Public Statement pursuant to 71 P.S. § 309-4(e). The OCA indicated it filed these

¹ Consistent with Commission filing procedures, CUPA filed the Application twice, once for its water division and once for its wastewater division, to enable the Commission to assign two docket numbers. The Application at each docket is identical.

documents to ensure that the underlying transaction provides substantial affirmative benefits to the ratepayers of CUPA and is otherwise consistent with the Public Utility Code.

4. On December 12, 2022, the OSBA filed a Notice of Appearance, Notice of Intervention and Protest, Public Statement, and Verification seeking to investigate how the merger/change of control transaction reflected in the Application would impact water and wastewater rates of small business customers and whether there exist affirmative public benefits, among other potential issues that might arise in the proceeding.

5. No other parties or individuals filed a protest or notice of intervention or other correspondence with the Commission.

6. On January 3, 2023, an Initial Telephonic Hearing Notice was issued setting a Telephonic Pre-Hearing Conference for Thursday, February 2, 2023, at 10:00 AM. Subsequently, ALJ Long issued a Prehearing Conference Order directing the parties to file Prehearing Conference Memorandums by no later than 12:00 PM on Wednesday, February 1, 2023.

7. On January 6, 2023, Notices of Appearances were filed by Sean T. O'Neill and Pamela S. Goodwin on behalf of SWMAC.

8. The dockets in this matter were consolidated on February 2, 2023.

9. The parties served written direct, rebuttal, and surrebuttal testimony and exhibits consistent with the procedural schedule in this proceeding.² CUPA served written rejoinder testimony on April 21, 2023.

10. On April 25, 2023, the parties agreed to waive cross examination and requested that the evidentiary hearing in this matter be cancelled.

11. On April 25, 2023, ALJ Long cancelled the evidentiary hearing.

² OSBA did not serve testimony or exhibits.

12. On April 27, 2023, Joint Petitioners submitted a Joint Stipulation of Evidence seeking to have the following evidence entered into the record:

Community Utilities of Pennsylvania Inc.

Direct Testimony

- A. Prepared Direct Testimony of Dana Hill (CUPA Statement No. 1)
- B. Prepared Direct Testimony of Ellen Lapson, CFA (CUPA Statement No. 2) and Exhibit EL-1
- C. Prepared Direct Testimony of Steven M. Lubertozzi (CUPA Statement No. 3) and Exhibit SML-1
- D. Prepared Direct Testimony of Brian D. Bahr (CUPA Statement No. 4)

Rebuttal Testimony

- A. Prepared Rebuttal Testimony of Dana Hill (CUPA Statement No. 1R)
- B. Prepared Rebuttal Testimony of Steven M. Lubertozzi (CUPA Statement No. 3R)
- C. Prepared Rebuttal Testimony of Brian D. Bahr (CUPA Statement No. 4R)

Rejoinder Testimony

- A. Prepared Rejoinder Testimony of Steven M. Lubertozzi (CUPA Statement No. 3RJ)

Other Evidence

- A. Application of Community Utilities of Pennsylvania Inc. (Public Version) including all Appendices and Attachments thereto (filed November 9, 2023).
- B. Confidential Attachments to Application of Community Utilities of Pennsylvania Inc. – Appendix A, Confidential Exhibit A and Appendix I, Exhibit D (filed November 9, 2023).

Office of Consumer Advocate

Direct Testimony

- A. Direct Testimony of Morgan N. DeAngelo (OCA Statement 1)

Surrebuttal Testimony

- A. Surrebuttal Testimony of Morgan N. DeAngelo (OCA Statement 1SR) Corrected and served April 27, 2023

Other Evidence

- A. OCA Exhibit D-1 Stipulated Updated Discovery Responses

13. By Interim Order dated May 1, 2023, ALJ Long granted the Joint Stipulation of Evidence and admitted the above-listed evidence into the evidentiary record.

B. THE APPLICATION AND CUPA'S DIRECT TESTIMONY

14. CUPA is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania and a public utility, operating in Pennsylvania, and engaged in the provision of water and wastewater utility service to the public for compensation. The Company's business address is 570 Hallet Road, East Stroudsburg, PA 18301. Application at 3; CUPA St. No. 1 at 2-3.

15. CUPA is an investor-owned public utility pursuant to Section 1102 of the Public Utility Code, 66 Pa.C.S. § 1102, does business as a regulated water and wastewater utility in Pennsylvania, and is subject to the regulatory oversight of this Commission. The Company presently serves approximately 3,278 water customers and approximately 3,846 wastewater customers in Pennsylvania. The Company's service territory spans four counties in Pennsylvania. Application at 3-4. CUPA St. No. 1 at 2-3.

16. CUPA seeks Commission authorization of a proposed merger of SWMAC and Corix US. The Proposed Transaction takes place well above the utility operating company level (i.e., CUPA). The Proposed Transaction does not involve a change in direct control of CUPA. Nor does the transaction involve a transfer of the stock or assets of CUPA. Nor will the stock or assets of the Company be pledged or encumbered as a result of the Proposed Transaction. Application at 1, 8; CUPA St. No. 3 at 16.

17. Figure 1 depicts the simplified organization of Corix US and SWMAC before the transaction, and Figure 2 provides a simplified organization chart reflecting the combined company after SWMAC merges with and into Corix US. Application at 1-3.

Figure 1

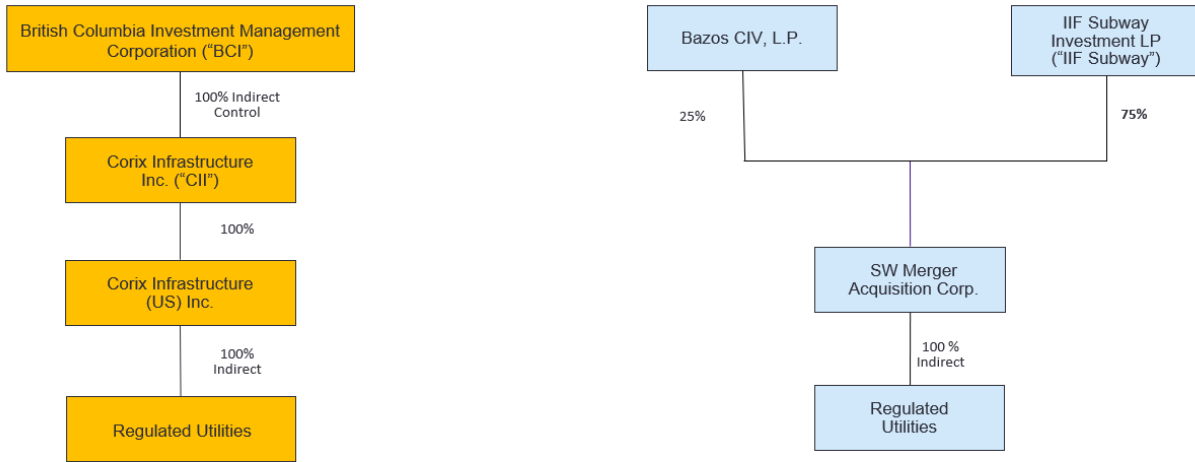
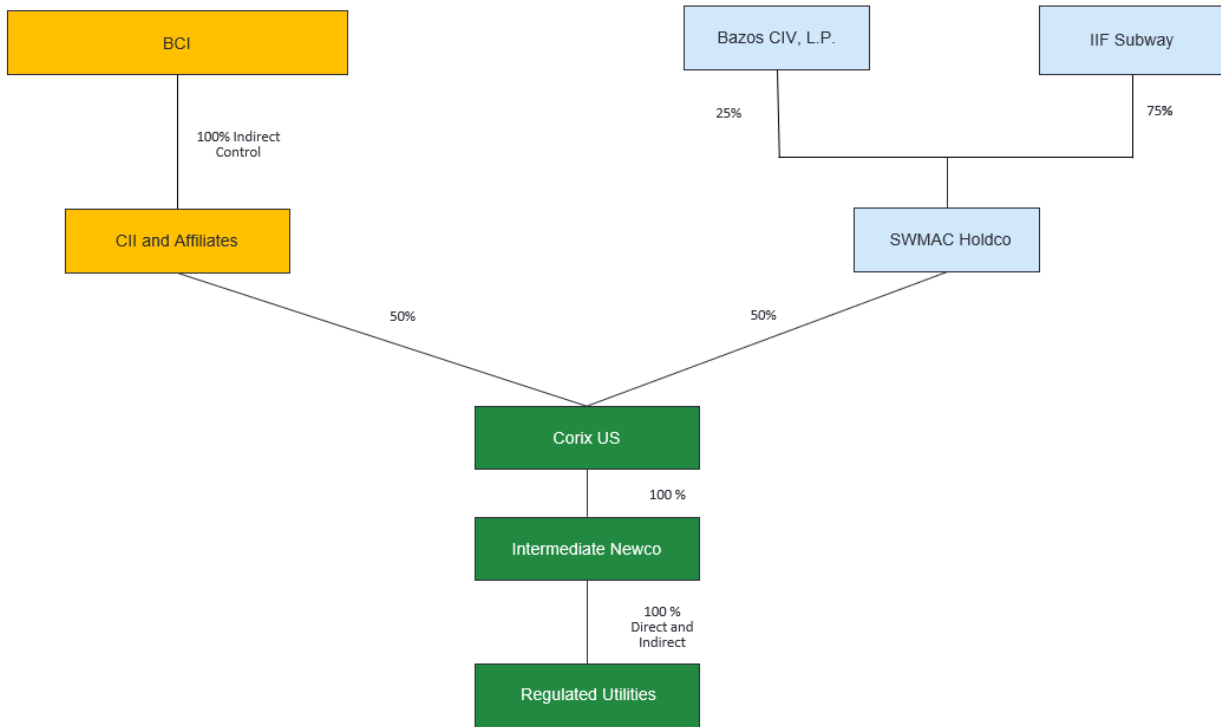


Figure 2



18. Corix US is a corporation incorporated under the laws of Delaware. Corix US is owned by Corix Infrastructure Inc. (“CII”). CII, through its operating subsidiaries, owns and

operates approximately 385 water, 310 wastewater, two electricity distribution, one propane, three geothermal, one municipal, and three natural gas distribution systems in the United States and Canada. CII's water and wastewater utilities and related businesses serve over 800,000 people in 18 U.S. states and two Canadian provinces. Corix US, in turn, indirectly owns 100% of CUPA. Application at 4; CUPA St. No. 3 at 4-6.

19. SWMAC is a Delaware corporation that owns 100% of SouthWest Water Company ("SouthWest"). SWMAC, through its operating subsidiaries, owns and operates 18 water and wastewater utility companies in the United States. SWMAC's water and wastewater utilities provide service to over 500,000 people in seven U.S. states. SWMAC is owned by IIF Subway Investment LP ("IIF Subway") and Bazos CIV, L.P. Application at 4-5; CUPA St. No. 4 at 3-4.

20. As part of the Proposed Transaction, Corix US will organize Intermediate Newco under the laws of Delaware ("Intermediate Newco"). Application at 5.

21. On August 26, 2022, CII and Corix US (the "Corix Parties") entered into a transaction agreement ("Transaction Agreement") with IIF Subway, SWMAC, and SouthWest (the "SouthWest Parties"). The Transaction Agreement provides a framework for combining CII's water, wastewater, and related businesses, with the water and wastewater businesses owned by SWMAC. The Transaction Agreement is attached to the Application at Appendix B. When the transactions contemplated by the Transaction Agreement are completed, CII and an affiliate or affiliates of CII will own 50% of Corix US and SWMAC Holdco, an entity that will be formed by SWMAC's shareholders before closing, will own the other 50% of Corix US. Corix US, in turn, will indirectly own and control all the CII water, wastewater and related businesses, and the SWMAC water and wastewater businesses. To prepare for the transaction, both the Corix Parties

and the Southwest Parties will undertake pre-closing restructuring transactions. Application at 7. CUPA St. No. 3 at 6-7.

22. After the Corix Parties and the SouthWest Parties complete the pre-closing restructuring transactions, SWMAC will merge with and into Corix US, with Corix US being the surviving entity. As a result, SWMAC Holdco will acquire 50% of Corix US's stock, Corix US will acquire the outstanding stock of SouthWest currently owned by SWMAC, and Corix US will continue to indirectly own the Company. Application at 7-8; CUPA St. No. 3 at 7-11.

23. Corix US then will transfer all the outstanding equity of SouthWest and certain Corix US entities to Intermediate Newco. In exchange for this contribution of stock, Intermediate Newco will issue stock to Corix US and assume all of Corix US's third-party debt, with Intermediate Newco being a wholly owned subsidiary of Corix US. Application at 8; CUPA St. No. 3 at 7-11.

24. Upon consummation of the Proposed Transaction: (a) CII and an affiliate or affiliates of CII will own 50% of Corix US's stock; and (b) SWMAC Holdco will own the remaining 50% of Corix US's stock. Corix US will own all the stock of Intermediate Newco, and Intermediate Newco will indirectly own all the utility operating subsidiaries comprising the CII water, wastewater and related businesses, as well as the SWMAC water and wastewater business. Application at 8; CUPA St. No. 3 at 7-11.

25. A Summary of the Proposed Transaction with Simplified Pre- and Post-Closing Organizational Charts is attached to the Application as Appendix A.

26. The President of the Company, Dana Hill, will remain the President of the Company. The Chief Executive Officer of the combined company will be Rob MacLean, the current CEO of SWMAC and SouthWest. As of closing, the combined company will be governed

by a board comprised of nine directors (the “Board”): the combined company’s CEO; four shareholder representatives; and four independent directors (one of whom will be the chair). Application at 9.

27. In its Application and Testimony, CUPA stated that CUPA will remain financially, technically, and legally fit to own and operate its Pennsylvania public utility business. Application at 11; CUPA St. No. 1 at 5-6. CUPA St. No. 2 at 10 (“The Proposed Transaction creates no new risks to CUPA or to CUPA’s customers.”); CUPA St. No. 3 at 16; CUPA St. No. 4 at 5-6

28. The Proposed Transaction will not result in any anti-competitive or discriminatory conduct. As SWMAC does not own or operate any utilities in Pennsylvania, the Proposed Transaction will not reduce competition in Pennsylvania. Application at 16.

29. The merger will have no impact on the Commission’s continuing regulation of CUPA as a water and wastewater utility in Pennsylvania. CUPA will remain a public utility subject to regulation by the Commission pursuant to the Public Utility Code. Application at 16.

30. The merger will have no immediate impact on CUPA’s rates. Application at 16.

31. Until CUPA enters into a new affiliate interest agreement after closing, CUPA will continue to use its existing affiliate interest agreement to allocate corporate shared services costs. When CUPA proposes to enter into a new affiliate interest agreement, the agreement will be presented to the Commission for its approval pursuant to Section 2102 of the Public Utility Code, 66 Pa.C.S. § 2102.

32. CUPA Witness Ellen Lapson, CFA testified the Proposed Transaction creates no new risks to CUPA or CUPA’s customers. CUPA St. No. 2 at 10.

33. In its Application and Direct Testimony, CUPA stated the Proposed Transaction will provide affirmative public benefits:

- a) The Proposed Transaction will result in the combination of two strong water and wastewater utility holding companies that both possess financial, technical, and managerial expertise in the water and wastewater industries while also having a shared mission and shared values. The Proposed Transaction is highly complementary and allows for the sharing of prudent practices to support the creation of a larger, stronger water and wastewater company. Application at 12; CUPA St. No. 3 at 13.
- b) The Proposed Transaction will improve CUPA's access to capital needed to support further investment in facilities and systems that would improve service to Pennsylvania customers. Application at 12; CUPA St. No. 2 at 10 ("CUPA will have superior access to common equity.") ("CUPA will have comparable access to the debt capital market and either similar or superior access to bank credit relative to its current situation").
- c) The Proposed Transaction will be seamless to customers, including continuation of low-income customer assistance. There will be continuity of management and operations. CUPA will continue to operate and charge duly authorized rates under the terms of service previously approved by this Commission as a Pennsylvania public utility subject to the continuing jurisdiction of the Commission. CUPA St. No. 1 at 6-7.
- d) The Proposed Transaction will retain the strong corporate citizenship and presence of CUPA in Pennsylvania. Application at 12; CUPA St. No. 1 at 5-7.
- e) The Proposed Transaction will generate operational benefits to customers. The Proposed Transaction will provide Pennsylvania employees with access to

additional experiences and resources, which will benefit the Company's customers. The increased scale and enhanced financial foundation of the combined company will improve the Company's ability to make significant, long-term investments required to continue providing quality water and wastewater services to the local communities served by the Company. The combined company's investments in water and wastewater infrastructure improvements will ensure high-quality service and high-quality water that is safe, reliable, sustainable, and affordable. Application at 12-14.

f) The combined company's financial resources, increased scale, and enhanced financial foundation, will benefit customers in Pennsylvania by enabling significant, long-term investments needed to continue providing high-quality water and wastewater services. These investments, together with the sharing of prudent practices and operating expertise of both companies, will benefit customers through the continued safe, reliable, and sustainable delivery of critical water and wastewater services and high-quality customer service. The merger will create a more diverse group of employees with more collective knowledge and expertise in providing quality water and wastewater services, which will be shared throughout the combined company, including the employees in Pennsylvania. Application at 14; CUPA St. No. 1 at 7-9.

g) The merger is expected to produce financial benefits, such as reduction in board governance costs, audit expenses, and senior executive costs, which will benefit customers. The merger is also expected to produce longer-term financial benefits as the integration of CII's and SWMAC's water and wastewater businesses

occurs methodically and systematically over time. Application at 14; CUPA St. No. 1 at 9; CUPA St. No. 3 at 13-14.

- h) The increased scale, expertise, and financial resources of the combined company will position the Company for continued growth in Pennsylvania. As the Commission is aware, the Company has continued to expand its presence in Pennsylvania through acquisitions, such as the service territory now known as Tamiment, f/k/a Pennsylvania Utility Company. As the Commission recognized, CUPA acquired Tamiment in 2019 in a state of disrepair and, prior to seeking a rate increase for Tamiment customers, had already made significant upgrades, repairs, and replacements. The merger will only improve the Company's ability to continue to grow its operations in Pennsylvania and enhance local scale, purchasing power, and operational efficiencies. Application at 14-15; CUPA St. No. 1 at 7.
34. In its Application and Direct Testimony, CUPA made the following commitments:
- CUPA COMMITMENT 1.* The Company will continue to provide high-quality water and wastewater utility services to the Company's customers.
- CUPA COMMITMENT 2.* The Company will continue to maintain a strong local presence in Pennsylvania in terms of employees, facilities and offices, and community support.
- CUPA COMMITMENT 3.* The combined companies have incurred and will incur transaction costs. The combined companies, including CUPA, will not seek to recover transaction costs from customers.
- CUPA COMMITMENT 4.* While the Proposed Transaction is not driven by net financial synergies, the combined companies anticipate that the merger will improve

efficiency and the integration of administrative and general functions should result in cost savings. The integration of CII's water, wastewater and related businesses with SWMAC's water and wastewater business will be a significant, prolonged undertaking. The combined companies acknowledge that costs and benefits associated with integration will be addressed in future ratemaking proceedings.

CUPA COMMITMENT 5. The Company will not guarantee any debt or credit instrument of Intermediate Newco or any affiliate of the Company unless such debt is incurred for the specific purpose of the Company's systems or operations. The Company will obtain any necessary Commission approvals related to issuing securities pursuant to 66 Pa.C.S. § 1901.

CUPA COMMITMENT 6. The proceeds of any debt incurred by the Company will only be used for purposes specific to the Company's systems or operations.

CUPA COMMITMENT 7. The Company will not transfer any material asset to Intermediate Newco or an affiliate except in an arm's length transaction and in compliance with the laws of the Commonwealth of Pennsylvania and subject as necessary to first obtaining Commission approval.

CUPA COMMITMENT 8. The combined company will be established with a target investment grade capital structure profile and operated in a way that is consistent with maintaining an investment grade profile.

CUPA COMMITMENT 9. The combined company, including CUPA, will refrain from any involuntary force reductions related to the merger for the first 12 months after the Proposed Transaction closes.

CUPA COMMITMENT 10. The Company will present any new affiliated interest and/or shared services agreements to the Commission for approval pursuant to Section 2102 of the Public Utility Code, 66 Pa.C.S. § 2102.

C. OCA'S DIRECT TESTIMONY

35. OCA's Direct Testimony stated the Proposed Transaction creates three risks to customers: (1) a risk of customers having to pay for the Proposed Transaction through various means, including paying for transaction costs, termination fees and damages under Section 10.2(c) of the Transaction Agreement, acquisition adjustments, and a goodwill adjustment or financing goodwill, OCA St. No. 1 at 5; (2) a risk of inadequate capital where Corix US and SWMAC are not expressly included in CUPA's commitment to ensure adequate capital for continued service to customers, OCA St. No. 1 at 5; and (3) a risk that CUPA's headquarters could move out of Pennsylvania, OCA St. No. 1 at 6.

36. OCA's Direct Testimony stated that the Proposed Transaction does not provide affirmative public benefits. OCA St. No. 1 at 3-4.

37. OCA's Direct Testimony recommended that the Commission not approve the Application as filed. OCA St. No. 1 at 13-14.

38. OCA's Direct Testimony recommended the following conditions be imposed if the Proposed Transaction is approved, OCA St. No. 1 at 14-15:

OCA Proposed Commitment 1) No costs associated with the transaction will be recorded on the books or included in the rates of CUPA in any way, including but not limited to rate base, operating expenses, or capital structure. Transaction costs include but are not limited to consulting, advisory and legal fees, termination fees (if the transaction is not consummated), money damages, acquisition adjustments,

Goodwill and financing for Goodwill. In future rate proceedings, any direct or indirect impact of the transaction on any component of the ratemaking formula will be subject to review and challenge.

OCA Proposed Commitment 2) Corix US, SWMAC and CUPA will adequately fund and maintain the Company's treatment, transmission and distribution and collection systems and supply the service needs of its customers in accordance with Pennsylvania statutory, regulatory and Commission requirements.

OCA Proposed Commitment 3) CUPA will maintain its principal office in Pennsylvania and in a location central to its operations (East Stroudsburg) for at least three years after closing.

OCA Proposed Commitment 4) CUPA will provide 45-day notice to the Commission, at a minimum, if CUPA decides to move its principal office.

OCA Proposed Commitment 5) Extension of CUPA's stay out for filing a base rate case by an additional 12 months, to September 30, 2024.

OCA Proposed Commitment 6) In its next base rate case, CUPA will propose metered rates (made up of fixed and volumetric charges) for wastewater customers in its Utilities Inc. of Pennsylvania system.

OCA Proposed Commitment 7) When CUPA customers call customer service, they will continue to be directed to a customer service representative responsible for customers in Pennsylvania.

OCA Proposed Commitment 8) CUPA will hold a customer meeting in the Tamiment service territory within 60 days after entry of an order, as described in the OCA's testimony.

The meeting will be open to the public and allow for in-person and virtual participation. CUPA will work with the Glen at Tamiment Property Owners Association (POA) to 1) schedule the date, time, and location of the meeting and 2) ensure that CUPA and, as needed, Corix US representatives attend the meeting who have knowledge and authority to respond to questions and concerns regarding high bill complaints, water quality, training for call center representatives, and other issues identified in advance by the POA or customers.

Within 60 days, post-meeting, CUPA will file a report with the Commission summarizing its actions to address questions and complaints raised during the customer meeting.

OCA Proposed Commitment 9) CUPA will take steps to increase enrollment in its low-income program, by: (1) sending a bill insert to all residential and commercial water customers containing information about CUPA's low-income program, eligibility requirements and how to enroll; (2) adding and maintaining updated information on its website about the bill discount program in its current or future forms that is readily accessible from the home page; (3) training call center representatives on its low-income program and instruct the representatives to provide information about eligibility and enrollment in response to customers who call about payment issues and when outgoing calls are made about late payments.

OCA Proposed Commitment 10) For customers who are found to be eligible for the low-income program, CUPA will apply the low-income rate retroactively to the date the customer applied for enrollment.

OCA Proposed Commitment 11) CUPA will establish a hardship program that applies one-time (per year) assistance grants directly to customer bills, to which its shareholders will contribute \$20,000 annually. Amounts not expended in one year will be rolled over to the next year. These contributions will not be recovered in rates and will be made available to customers with income at or below 200% of the federal poverty guidelines.

OCA Proposed Commitment 12) CUPA should be required to provide an update at the close of record identifying the approvals to date and listing the commitments adopted in those jurisdictions that were not included in CUPA's application or testimony in this proceeding. That will allow the Commission to include those commitments as conditions if it approves the transaction.

D. CUPA'S REBUTTAL TESTIMONY

39. In its Rebuttal Testimony, CUPA disagreed with OCA that the risks OCA alleged were likely to occur or would in fact cause harm to customers. CUPA St. No. 3R at 4-8.

40. In its Rebuttal Testimony, CUPA disagreed with OCA that the Proposed Transaction does not present affirmative public benefits and reiterated the affirmative public benefits presented in the Application and CUPA's Direct Testimony. CUPA St. No. 3R at 2-4.

41. In Rebuttal Testimony, CUPA largely disagreed that the conditions OCA recommended were just and reasonable or necessary. CUPA St. No. 3R at 10-24.

42. In its Rebuttal Testimony, despite disagreement with OCA, CUPA showed it was willing to address OCA's concerns by agreeing to some of OCA's conditions and modifying some conditions, however, CUPA did not agree to all of OCA's proposed conditions. CUPA St. No. 3R at 10-24.

43. CUPA presented the following list of conditions and modification in response to

OCA:

In Response to OCA Condition(s)	CUPA Commitment
OCA One	<p>1. CUPA defines “Transaction Costs” as:</p> <ul style="list-style-type: none"> • The costs of securing formal written evaluations of the transaction; • The costs of structuring the transaction and obtaining tax advice on the structure of the transaction; • The costs of negotiating, preparing, and reviewing the Transaction Agreement; • The costs of retained consultants and advisors to evaluate the transaction and perform due diligence; • Legal and other fees of completing pre-closing restructuring; • Legal and other fees to close the proposed transaction; • Financial advisor fees; and • The costs of securing regulatory approvals. <p>Transaction Costs have been and will be incurred before, or on the date, the Proposed Transaction closes. CUPA will not seek to recover Transaction Costs. Likewise, while CUPA’s definition of Transaction Costs does not include incentive and retention payments made to employees, CUPA will not seek recovery from customers of Transaction Costs or incentive and retention payments directly related to and paid solely because of the Proposed Transaction.</p> <p>2. If Corix US becomes obligated to make, and subsequently makes, a termination payment to IIF Subway pursuant to Section 10.2(c) of the Transaction Agreement, CUPA will not seek to recover any portion of such payment from its customers.</p> <p>3. CUPA does not anticipate that the Proposed Transaction will be reflected in CUPA’s books. CUPA agrees to provide, within 60 days after the Proposed Transaction closes, the journal entries that reflect the impact of the transfer/merger on its books and records, if there are any such entries. If there are any entries, CUPA agrees that these entries will not impact CUPA’s rate base for ratemaking purposes.</p>
OCA Two	<p>CUPA will continue to maintain sufficient staff, facilities, and operating skills consistent with its obligation to serve customers in Pennsylvania. CUPA will continue to meet the service needs of its customers in accordance with the Public Utility Code and applicable provisions of the Commission’s regulations. CUPA will continue to have access to capital</p>

	needed to support continued prudent investment in its facilities, systems, and staff that will support proper service to Pennsylvania customers.
OCA Three and Four	Consistent with the Company’s commitment to maintaining a strong local presence in Pennsylvania in terms of employees, facilities and offices, CUPA will maintain its principal business address in East Stroudsburg, Pennsylvania and will notify the Commission within 15 days if it relocates its principal office.
OCA Six	CUPA will undertake commercially reasonable efforts to obtain the information that it needs to develop and bill volumetric rates for wastewater customers who do not receive water service from CUPA in the service territory formerly known as Utilities, Inc. of Pennsylvania. If CUPA obtains at least six months’ worth of usage data for the relevant customers at least two months before the next base rate case filing, it will propose volumetric rates in that proceeding. In the event CUPA is unable to obtain the necessary information in this time frame, CUPA will commit to proposing volumetric rates in a subsequent base rate proceeding once it has obtained the necessary information.
OCA Seven	Consistent with CUPA’s rebuttal testimony in Docket Nos. R-2021-3025206 & R-2021-3025207, when CUPA customers contact customer service, they are directed to a customer service representative responsible for customers in Pennsylvania. Therefore, at closing, the current process will continue to be in place.
OCA Eight and Nine	<p>CUPA will hold a customer meeting in the Tamiment service territory within 60 days after entry of an order, as described in OCA’s testimony. The meeting will be open to the public and allow for in-person and virtual participation.</p> <p>CUPA will work with the Glen at Tamiment Property Owners Association (POA) to 1) schedule the date, time, and location of the meeting and 2) ensure that CUPA and, as needed, Corix US representatives attend the meeting who have knowledge and authority to respond to questions and concerns regarding high bill complaints, water quality, training for call center representatives, and other issues identified in advance by the POA or customers.</p> <p>Within 60 days, post-meeting, CUPA will file a report with the Commission summarizing its actions to address questions and complaints raised during the customer meeting.</p>
OCA Ten	<p>CUPA will take the following steps to increase enrollment in its low-income program, at a minimum, within 30 days after entry of an order approving the Proposed Transaction:</p> <ul style="list-style-type: none"> • Send to all residential water customers a bill insert containing information about CUPA’s low-income program, eligibility requirements, and how to enroll.

	<ul style="list-style-type: none"> • Add and maintain updated information on CUPA’s website about the bill discount program in its current or future forms that is readily accessible from the home page. • Provide reasonable training about the low-income program to customer service representatives.
OCA Eleven	For customers who are found to be eligible for the low-income program, CUPA will apply the low-income rate retroactively to the date the customer applied for enrollment.
OCA Twelve	CUPA, as a condition to the approval of the Proposed Transaction, is willing to commit to continuing to propose low-income water and wastewater rates in its next two base rate cases.

E. OCA’S SURREBUTTAL TESTIMONY

44. In Surrebuttal Testimony, OCA continued to conclude that the Commission should not approve the Application as filed. OCA St. No. 1SR at 13.

45. In Surrebuttal Testimony, OCA stated it appreciated and was willing to accept some of CUPA’s modified conditions, suggested further modifications to some conditions, and continued to advocate for some conditions to which CUPA did not agree. OCA St. No. 1SR at 2-12.

46. In Surrebuttal Testimony, OCA advocated for the following conditions, OCA St. No. 1SR at 13-14:

- One - No costs associated with the transaction will be recorded on the books or included in the rates of CUPA in any way, including but not limited to rate base, operating expenses, or capital structure. Transaction costs include but are not limited to consulting, advisory and legal fees, termination fees (if the transaction is not consummated), money damages, acquisition adjustments, Goodwill and financing for Goodwill. In future rate proceedings, any direct or indirect impact of the transaction on any component of the ratemaking formula will be subject to review and challenge.
- Two - Corix US, SWMAC and CUPA will adequately fund and maintain the Company’s treatment, transmission and distribution and collection systems and supply the service needs of its customers in accordance with Pennsylvania statutory, regulatory and Commission requirements.
- Three - CUPA will maintain its principal office in Pennsylvania and in a location central to its operations (East Stroudsburg) for at least three years after closing.
- Four - CUPA will provide 30-day notice to the Commission, at a minimum, if CUPA decides to move its principal office.

- Five - Extension of CUPA's stay out for filing a base rate case by an additional 12 months, to September 30, 2024.
- Six - In its next base rate case, CUPA will propose metered rates (made up of fixed and volumetric charges) for wastewater customers in its Utilities Inc. of Pennsylvania system.
- Seven - When CUPA customers call customer service, they will continue to be directed to a customer service representative responsible for customers in Pennsylvania.
- Eight - CUPA will hold a customer meeting in the Tamiment service territory within 60 days after entry of an order, as described in the OCA's testimony.
 - The meeting will be open to the public and allow for in-person and virtual participation.
 - CUPA will work with the Glen at Tamiment Property Owners Association (POA) to 1) schedule the date, time, and location of the meeting and 2) ensure that CUPA and, as needed, Corix US representatives attend the meeting who have knowledge and authority to respond to questions and concerns regarding high bill complaints, water quality, training for call center representatives, and other issues identified in advance by the POA or customers.
- Nine – Within 60 days, post-meeting, CUPA will file a report with the Commission summarizing its actions to address questions and complaints raised during the customer meeting.
- Ten – CUPA will take steps to increase enrollment in its low-income program, by: (1) sending a bill insert to all residential water customers containing information about CUPA's low-income program, eligibility requirements and how to enroll; (2) adding and maintaining updated information on its website about the bill discount program in its current or future forms that is readily accessible from the home page; and (3) training call center representatives on its low-income program and instruct the representatives to provide information about eligibility and enrollment in response to customers who call about payment issues and when outgoing calls are made about late payments.
- Eleven - For customers who are found to be eligible for the low-income program, CUPA will apply the low-income rate retroactively to the date the customer applied for enrollment.
- Twelve - CUPA will establish a hardship program that applies one-time (per year) assistance grants directly to customer bills, to which its shareholders will contribute \$20,000 annually. Amounts not expended in one year will be rolled over to the next year. These contributions will not be recovered in rates and will be made available to customers with income at or below 200% of the federal poverty guidelines.
- Thirteen - CUPA should be required to provide an update at the close of record identifying the approvals to date and listing the commitments adopted in those jurisdictions that were not included in CUPA's application or testimony in this proceeding so the Commission can include those commitments as conditions if it approves the transaction.

F. CUPA’S REJOINDER TESTIMONY

46. In Rejoinder Testimony, CUPA disagreed with some of OCA’s recommended conditions, recognized agreement with OCA on some conditions, and proposed conditions to attempt to address OCA’s continuing concerns. CUPA St. No. 3RJ at 2-18. However, there were certain conditions on which the parties continued to disagree. CUPA St. No. 3RJ at 2-18.

II. SETTLEMENT

47. During the course of extensive informal and formal discovery and service of direct, rebuttal, surrebuttal, and rejoinder testimony, the Joint Petitioners engaged in numerous settlement communications to determine if a settlement was possible consistent with the Commission’s policy to “encourage settlements” stated at 52 Pa. Code § 5.231(a). The Settlement is the product of those extensive negotiations, representing a compromise among the Parties. The Joint Petitioners agree that this Settlement is a reasonable resolution of competing positions and interests in a way that is lawful and meets and promotes the public interest. It also represents an outcome that is preferable to the time, expense, and uncertainty of further litigation before the Commission, and, potentially, the appellate courts.

48. The Settlement consists of the following terms and conditions as set forth below.

49. Consistent with the Company’s commitment to maintaining a strong local presence in Pennsylvania in terms of employees, facilities and offices, CUPA will maintain its principal business address in East Stroudsburg, Pennsylvania unless relocation of the office is necessary for CUPA to properly manage day-to-day operations. The Company will notify the Commission within 30 days if it relocates its principal office.

50. CUPA will continue to maintain sufficient staff, facilities, and operating skills consistent with its obligation to serve customers in Pennsylvania. CUPA will continue to meet the

service needs of its customers in accordance with the Public Utility Code and applicable provisions of the Commission's regulations. CUPA will continue to have access to capital needed to support continued prudent investment in its facilities, systems, and staff that will improve service to Pennsylvania customers.

51. CUPA will undertake commercially reasonable efforts to obtain the information that it needs to develop and bill volumetric rates for wastewater customers who do not receive water service from CUPA in the service territory formerly known as Utilities, Inc. of Pennsylvania. If CUPA obtains at least six months' worth of usage data for the relevant customers at least two months before the next base rate case filing, it will propose volumetric rates in that proceeding. In the event CUPA is unable to obtain the necessary information in this time frame, CUPA commits to proposing volumetric rates in a subsequent base rate proceeding once it has obtained the necessary information. Every 45 days until metered rates are proposed, CUPA will file a report in this docket regarding its progress in obtaining the usage data.

52. Consistent with CUPA's rebuttal testimony in Docket Nos. R-2021-3025206 & R-2021-3025207, when CUPA customers contact customer service, they are directed to a customer service representative responsible for customers in Pennsylvania. Therefore, at closing, the current process will continue to be in place.

53. CUPA will hold a customer meeting in the Tamiment service territory within 60 days after entry of an order. The meeting will be open to the public and allow for in-person and virtual participation. CUPA will work with the Glen at Tamiment Property Owners Association (POA) to 1) schedule the date, time, and location of the meeting and 2) ensure that CUPA and, as needed, Corix US representatives attend the meeting who have knowledge and authority to respond to questions and concerns regarding high bill complaints, water quality, training for call center

representatives, and other issues identified in advance by the POA or customers. Within 60 days, post-meeting, CUPA will file a report with the Commission summarizing its actions to address questions and complaints raised during the customer meeting.

54. CUPA, as a condition to the approval of the Proposed Transaction, is willing to commit to continuing to propose low-income water and wastewater rates in its next two base rate cases. CUPA will also propose an arrearage management program for water and wastewater customers in its next base rate case. The OCA and OSBA reserve their rights to present their positions on CUPA's proposals in future cases.

55. For customers who are found to be eligible for the low-income program, CUPA will apply the low-income rate retroactively to the date the customer applied for enrollment.

56. CUPA will take the following steps to increase enrollment in its low-income program, at a minimum, within 30 days after entry of an order approving the Proposed Transaction:

- Send to all residential water customers a bill insert containing information about CUPA's low-income program, eligibility requirements, and how to enroll.
- Add and maintain updated information on CUPA's website about the bill discount program in its current or future forms that is readily accessible from the home page.
- Provide reasonable training to customer service representatives about the CUPA low-income program, including eligibility criteria and ways to enroll.

57. In its next base rate case, CUPA will propose to increase eligibility to the low-income program from customers with income at or below 100% of the Federal Poverty Level ("FPL") to customers with income at or below 200% of the FPL. The OCA and OSBA reserve their rights to present their positions on CUPA's proposal in future cases.

58. CUPA defines "Transaction Costs" as:

- The costs of securing formal written evaluations of the transaction;
- The costs of structuring the transaction and obtaining tax advice on the structure of the transaction;
- The costs of negotiating, preparing, and reviewing the Transaction Agreement;
- The costs of retained consultants and advisors to evaluate the transaction and perform due diligence;
- Legal and other fees of completing pre-closing restructuring;
- Legal and other fees to close the proposed transaction;
- Financial advisor fees; and
- The costs of securing regulatory approvals.

Transaction Costs have been and will be incurred before, or on the date, the Proposed Transaction closes. CUPA will not seek to recover Transaction Costs. Likewise, while CUPA's definition of Transaction Costs does not include incentive and retention payments made to employees, CUPA will not seek recovery from customers of Transaction Costs or incentive and retention payments directly related to and paid solely because of the Proposed Transaction.

- a) If Corix US becomes obligated to make, and subsequently makes, a termination payment to IIF Subway pursuant to Section 10.2(c) of the Transaction Agreement, CUPA will not seek to recover any portion of such payment from its customers. If any of the Corix Parties become liable for money damages under Section 10.2(a) of the Transaction Agreement and CUPA seeks to recover any portion of such payment from its customers, it will be separately identified in CUPA's rate case, and the OCA and OSBA reserve the right to challenge the reasonableness, prudence, and basis of the claim.

b) CUPA does not anticipate that the Proposed Transaction will be reflected in CUPA's books. CUPA agrees to provide, within 60 days after the Proposed Transaction closes, the journal entries that reflect the impact of the transfer/merger on its books and records, if there are any such entries. If there are any entries, CUPA agrees that these entries will not impact CUPA's rate base for ratemaking purposes. The parties reserve all rights to challenge any direct or indirect impact of the Transaction on other components of the ratemaking formula, including but not limited to cost of capital.

59. No claim will be made for an acquisition adjustment under 66 Pa. C.S. § 1327 related to the Transaction.

60. At least for the first two rate cases post-closing, if the cost of capital claimed for establishing water and wastewater rates for CUPA reflects any risk adjustment associated with its corporate parents or any affiliate not regulated by the Commission, CUPA will identify the adjustment, and the OCA and OSBA reserve the right to challenge the reasonableness, prudence, and basis of the adjustment.

61. At least for the first two rate cases post-closing, if any equity or debt issued to finance goodwill is included in CUPA's ratemaking capital structure, CUPA will identify it, and the OCA and OSBA reserve the right to challenge the reasonableness, prudence, and basis for its inclusion.

62. As provided in the Application, until the company enters into a new affiliate interest agreement after closing, the company will continue to use its existing affiliate interest agreement to allocate corporate shared services costs. When the company proposes to enter into a

new affiliate interest agreement, the agreement will be presented to the Commission for its approval pursuant to Section 2102 of the Public Utility Code, 66 Pa. C.S. § 2102.

63. Within sixty (60) days after the Proposed Transaction closes, CUPA will file a report with the Commission, copied to OCA and OSBA, notifying them of the date the Transaction was completed/closed.

64. For five years after the closing date, CUPA will track and quantify all the benefits (both qualitative and quantitative) customers in its service territory are receiving under its new ownership. CUPA will submit that information in any future base rate case in which such tracked benefits accrue in the test years applicable to the particular rate filing(s).

65. The Commission's approval of the Settlement shall not be construed as approval of any Joint Petitioner's position on any issue in the proceeding but rather as an agreed-to compromise of the Joint Petitioners' competing positions. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any Joint Petitioner in this or any other proceeding if it were fully litigated. Accordingly, this Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement any term specifically agreed to by the Joint Petitioners or to enforce this Settlement.

66. This Settlement is presented without prejudice to the position any of the Joint Petitioners may advance in future proceedings, except to the extent necessary to effectuate or enforce any term specifically agreed to by the Joint Petitioners in this Settlement.

67. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. In reaching this Settlement, the Joint Petitioners thoroughly considered all issues and the give and take of the Joint Petitioners' respective positions.

As a result of that consideration, the Joint Petitioners believe that the Settlement meaningfully addresses all such issues raised and therefore should be approved without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active Parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement, or any Joint Petitioner elects to withdraw the Settlement, the Joint Petitioners reserve their respective rights to fully litigate this case, including but not limited to, presentation of legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

68. All Joint Petitioners support the Settlement and have agreed to make reasonable and good faith efforts to obtain approval of the Settlement by the Presiding Officers and the Commission without modification. If the Presiding Officers, in their Recommended Decision, recommend that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the ALJ in the Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed provided such Replies support the Settlement.

69. The Joint Petitioners recognize that the Settlement fully resolves all issues in this proceeding and is only binding upon the signatories to this Joint Petition.

70. The Joint Petitioners agree that this Settlement may be signed or executed in separate counterparts or signature pages that shall be binding upon the Joint Petitioners, and such counterparts shall be considered as one document. The Joint Petitioners agree and request that if

the Settlement is approved, the OCA's and OSBA's Protests in this matter should be marked satisfied and closed due to the Settlement.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

71. CUPA Corix US and SWMAC and OCA and have prepared and attach to this Joint Petition their respective Statements in Support as identified in Appendices A (CUPA, Corix US and SWMAC) and B (OCA) setting forth the basis upon which each Joint Petitioner believes the Settlement is fair, just, reasonable, lawful, and in the public interest.

72. The Joint Petitioners submit that the Settlement is in the public interest and, by avoiding further litigation, the Settlement will conserve the time, effort, and expense of all Joint Petitioners, as well as of the Commission and the Presiding Officer.

73. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules, practices and procedures encouraging and promoting negotiated settlements. *See* 52 Pa. Code §§ 5.231, 69.391, 69.401.

IV. PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the Application. 66 Pa.C.S. § 1102(a)(3); 52 Pa. Code § 69.901(b)(1).

2. The Commission may issue a certificate of convenience only upon a finding or determination that the granting of such certificate is "necessary or proper for the service, accommodation, convenience, or safety of the public." 66 Pa.C.S. § 1103(a).

3. The Commission must find that a proposed transaction would "affirmatively promote the 'service, accommodation, convenience, or safety of the public' in some substantial

way.” *City of York v. Pa. Pub. Util. Comm’n*, 449 295 A.2d 825, 828 (Pa.1972); *Popowsky v. Pa. Pub. Util. Comm’n*, 937 A.2d 1040 (Pa. 2007).

4. The benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 (Opinion and Order entered July 14, 2011) (citing, *Warner v. GTE North, Inc.*, Docket No. C-00902815 (Opinion and Order entered April 1, 1996); *Pa. Pub. Util. Comm’n v. CS Water and Sewer Associates*, 74 Pa. PUC 767 (1991)).

5. On appeal, the decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

6. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm’n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); *Pa. Dep’t of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth.1984).

7. Parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm’n v. MXenergy Electric Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

8. It is the Commission’s policy to encourage settlements. 52 Pa. Code § 5.231, 69.401.

V. PROPOSED ORDERING PARAGRAPHS

1. That the Joint Petition for Full Settlement, including attachments, is admitted into the record of this proceeding.

2. That the Joint Petition for Full Settlement filed on May 24, 2023 at Docket Nos. A-2022-3036745 and A-2022-3036745 is approved in its entirety and without modification.

3. That the proposals set forth in the November 9, 2022 Application of Community Utilities of Pennsylvania Inc., for Certificates of Public Convenience under Section 1102(a)(3) and 1103 of the Public Utility Code And All Other Approvals Necessary Under the Public Utility Code for Approval of a Merger of Equals Transaction is approved subject to the terms and conditions of the Joint Petition for Full Settlement filed on May 24, 2023.

4. That a Certificate of Public Convenience shall be issued pursuant to Section 1102(a)(3) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(3), evidencing Commission approval of the Proposed Transaction.

5. That Community Utilities of Pennsylvania Inc. shall provide written notification to the Secretary's Bureau within ten (10) days of closing the Proposed Transaction at Docket Nos. A-2022-3036745 and A-2022-3036745.

VI. REQUESTED RELIEF

WHEREFORE, Community Utilities of Pennsylvania, Inc., Corix Infrastructure (US) Inc., and SW Merger Acquisition Corp., and the Office of Consumer Advocate, respectfully request Administrative Law Judge Mary Long and the Pennsylvania Public Utility Commission: (1) approve the Settlement and all terms and conditions without modification including the proposed findings of fact, conclusions of law, and ordering paragraphs herein; (2) find that the terms of the Settlement are in accordance with the law and are in the public interest; and (3) grant Joint

Petitioners a Certificate of Public Convenience pursuant to Section 1102(a)(3) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(3), evidencing Commission approval of the Proposed Transaction.

Respectfully Submitted,

*Counsel for Community Utilities of
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/s/ Whitney E. Snyder

Dated: May 24, 2023

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APPENDIX A

Community Utilities of Pennsylvania Inc.,
Corix Infrastructure (US) Inc. and SW
Merger Acquisition Corp. Statement in
Support

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Community Utilities	:	Docket No. A-2022-3036745
of Pennsylvania Inc., for Certificates	:	(Water)
of Public Convenience under	:	
Sections 1102(a)(3) and 1103 of the	:	Docket No. A-2022-3036744
Public Utility Code And All Other	:	(Wastewater)
Approvals Necessary Under the	:	
Public Utility Code for Approval of	:	
a Merger of Equals Transaction	:	
	:	

STATEMENT IN SUPPORT OF JOINT PETITION FOR FULL SETTLEMENT

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Pursuant to 52 Pa. Code §§ 5.231-5.232, the Community Utilities of Pennsylvania Inc. (“CUPA”, “Company”, or the “Applicant”), Corix Infrastructure (US) Inc. (“Corix US”), and SW Merger Acquisition Corp. (“SWMAC”) collectively submit this Statement in Support of the Joint Petition for Full Settlement (“Settlement”) of the Application of Community Utilities of Pennsylvania Inc., for Certificates of Public Convenience under Sections 1102(a)(3) and 1103 of the Public Utility Code And All Other Approvals Necessary Under the Public Utility Code for Approval of a Merger of Equals Transaction (“Application”). The Settlement is among CUPA, Corix US, SWMAC, and the Office of Consumer Advocate (“OCA”) (collectively, “Joint Petitioners”). The Office of Small Business Advocate (“OSBA”) does not oppose the Settlement.

For the reasons stated below, the Settlement is in the public interest and in accordance with the law. Accordingly, CUPA, Corix US, and SWMAC are submitting this Statement in Support and respectfully request that the Presiding Officer and the Commission approve the Settlement, without modification or delay.

I. INTRODUCTION AND BACKGROUND

1. In the Application, CUPA seeks all necessary certificates of public convenience and approvals from the Pennsylvania Public Utility Commission (the “Commission”) for an indirect change of control of CUPA as a result of the proposed merger of SWMAC and Corix US and the creation of Intermediate Newco, a holding company that will be a subsidiary of the newly merged SWMAC and Corix US (with Corix US being the surviving entity) and will acquire indirect control of CUPA (“Proposed Transaction”). The Proposed Transaction will serve to create a larger, stronger water and wastewater company.

2. This Statement in Support demonstrates that the Proposed Transaction provides affirmative benefits (Section II) and the Settlement further satisfies the applicable standards for Commission approval because: the Settlement will produce even greater affirmative public

benefits (Section II.A), the requirements of fitness are met (Section II.B), and the transaction will not adversely affect competition (Section II.C). Section III demonstrates why approval of the Settlement is in the public interest.

3. As discussed below, the Settlement provides significant benefits to the public and in particular to customers, including provisions for the benefit of low-income customers that could not be achieved absent the Settlement. The Settlement should be expeditiously approved.

4. The Joint Petitioners stipulated the procedural history, the factual details of the Proposed Transaction, and each party's litigation position in this proceeding in the Joint Petition at Section I, which are hereby incorporated by reference.

5. The Settlement terms and conditions are set forth in full in the Joint Petition at Section II, and are hereby incorporated by reference. The benefits of the Settlement terms and conditions to the public are addressed on a term-by-term basis below.

II. THE APPLICATION, AS MODIFIED BY THE SETTLEMENT, MEETS THE REQUIREMENTS FOR COMMISSION APPROVAL

6. The Code Sections, 66 Pa. C.S. §§ 101, *et seq.*, applicable to this proceeding are Sections 1102 and 1103. These Code sections provide, in relevant part, the following:

§ 1102. Enumeration of acts requiring certificate.

(a) General rule. -- Upon the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, it shall be lawful:

(1) For any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by: (i) A certificate of public convenience granted under this part or under the former provisions of the act of July 26, 1913 (P.L.1374, No.854), known as "The Public Service Company Law," or the act of May 28, 1937 (P.L.1053, No.286), known as the "Public Utility Law." (footnotes omitted).

(2) For any public utility to abandon or surrender, in whole or in part, any service, except that this provision is not applicable to discontinuance of service to a patron for nonpayment of a bill, or upon request of a patron.

(3) For any public utility or an affiliated interest of a public utility as defined in section 2101 (relating to definition of affiliated interest), except a common carrier by railroad subject to the Interstate Commerce Act, to acquire from, or to transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service...

66 Pa. C.S. § 1102.

§ 1103. Procedure to obtain certificates of public convenience.

(a) General rule.-- Every application for a certificate of public convenience shall be made to the commission in writing, be verified by oath or affirmation, and be in such form, and contain such information, as the commission may require by its regulations. A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable. In every case, the commission shall make a finding or determination in writing, stating whether or not its approval is granted. Any holder of a certificate of public convenience, exercising the authority conferred by such certificate, shall be deemed to have waived any and all objections to the terms and conditions of such certificate.

66 Pa. C.S. § 1103.

7. To determine if a certificate of public convenience should be granted pursuant to the provisions of 66 Pa. C.S. § 1103, the Commission must find by a preponderance of the evidence that such approval is necessary or proper for the service, accommodation, convenience, or safety of the public. As a general rule, in making this determination, the Commission has required that “an applicant demonstrate a public need or demand for the proposed service, the inadequacy of existing service or facilities in the proposed territory and the applicant’s fitness to render such service, along technical, financial and legal lines.” *Chester Water Auth. v. Pa. Pub. Util. Comm’n*, 868 A.2d 384, 386 (Pa. 2005). However, a continuing public need is presumed where public utility

service is already being provided in the service territory subject to the application. *See re Glenn Yeager, et al.*, 49 Pa. PUC 138 (1975). In this proceeding, it is uncontested that a continuing need for water and wastewater service exists in the certificated service territories of CUPA.

8. In the context of a transfer of control of a utility, the Pennsylvania Supreme Court has described the analysis as follows:

In summary, as indicated in *City of York*, the appropriate legal framework requires a reviewing court to determine whether substantial evidence supports the Commission's finding that a merger will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way. In conducting the underlying inquiry, the Commission is not required to secure legally binding commitments or to quantify benefits where this may be impractical, burdensome, or impossible; rather, the PUC properly applies a preponderance of the evidence standard to make factually-based determinations (including predictive ones informed by expert judgment) concerning certification matters.

Popowsky v. Pa. Pub. Util. Comm'n, 937 A.2d 1040, 1057 (Pa. 2007) (footnote omitted) (*Popowsky*).

9. As demonstrated below, the Proposed Transaction, as modified by the Settlement, meets the standards for utility acquisitions. That is, the Proposed Transaction, as modified by the Settlement, provides even greater affirmative public benefits, CUPA remains technically, legally, and financially fit to own and operate its utility facilities in Pennsylvania, and the Proposed Transaction will have no adverse effect on competition. *See, e.g., Joint Application of West Penn Power Company*, Docket No. A-2010-2176520, 2011 WL 858491 at *8-10 (Order entered Feb. 24, 2011) (*West Penn*).

A. Proposed Modifications to the Transaction

10. The Settlement, in and of itself, meets the affirmative public benefits tests for acquisitions of utilities as set forth in *City of York v. Pa. Pub. Util. Comm'n*, 449 A.2d 825 (Pa. 1972) (*City of York*) and *Popowsky*. There are also substantial affirmative public benefits in

addition to those in the Settlement delineated in CUPA's testimony and exhibits, which will be discussed below.

11. Pursuant to the *City of York* standard, in order to approve an acquisition of a public utility, the Commission must find that the Proposed Transaction results in affirmative benefits. Affirmative benefits are measured based on the net effects on all affected parties – not every customer or party need receive a benefit for a finding of affirmative benefits. *West Penn*, 2011 WL 858491 at *22. A finding of affirmative benefits does not require quantitative proof or guarantee of such benefits, but rather adequate proof can be shown by a likelihood or probability of public benefit. *Popowsky*, 937 A.2d at 1057. The Commission need not “secure legally binding commitments to assure public benefit from a[n acquisition].” *Id.*, at 1055. The Commission must generally consider the effect of the acquisition on rates, but no quantification of specific effects of alleged savings is required. *Id.*, at 1056. The Commission must apply “a preponderance of the evidence standard to make factually based determinations (including predictive ones informed by expert judgment) concerning certification matters.” *Id.*, at 1057.

12. The Commission has held the following affirmative benefits, among others, support approval of a proposed acquisition:

- Increased scale, scope and diversification of the company providing opportunities for improved service, reliability and operational flexibility, *West Penn*, 2011 WL 858491 at *10;
- Enhanced customer service and reliability shown through prior history and commitment to implementation of best practices through deliberate approach, *Id.*, at *11;
- Removal of acquisition premiums from rates, *Re: UGI Utilities, Inc., et al.*, Docket No. A-2008-2034045, 2008 WL 3925861 at *12 (Order entered Aug. 21, 2008) (“We adopt the ALJ’s analysis of the substantial benefits contained in the Settlement Agreement and the record support for those benefits”) (*UGI Utilities, Inc.*); *see also UGI Utilities, Inc.*, Recommended Decision, slip. op. at 21, 29 (Aug. 7, 2008);

- Retention of or provision for Pennsylvania jobs, *Id.*, at 21;
- Commitment to continuing charitable contributions and community involvement, *Id.*;
- Allowing acquiring and divesting companies to better focus on core business and compatibility between acquiring company and utility acquired, *Id.*; *see also* Peoples, 2013 WL 6073343 at *44-45;
- Stability of ownership, *Joint Application of Aqua America Inc., Aqua Pennsylvania Inc., Aqua Pennsylvania Wastewater Inc., and Peoples Natural Gas Company LLC for All of the Authority and Necessary Certificates of Public Convenience to Approve a Change in Control of Peoples Natural Gas Company LLC by Way of the Purchase of All of LDC Funding LLC's Membership Interests by Aqua America Inc.*, Docket Nos. A-2018-3006061, *et al.*, 2020 WL 509879, at *69 (Opinion and Order entered Jan. 24, 2020) (*Aqua*); and
- Greater access to equity capital, *Id.*, at *70.

13. Here, CUPA's testimony and exhibits clearly demonstrate that the Proposed Transaction results in the following substantial affirmative benefits: (1) produce benefits arising from the advantages of a larger, more diversified company; (2) improve CUPA's access to capital needed to support further investment in facilities and systems that would improve service to Pennsylvania customers; (3) generate operational benefits to customers; (4) provide additional benefits over time; (5) retain the strong corporate citizenship and presence of CUPA in Pennsylvania; and (6) support effective state regulation. Application at 12.

14. More specifically, the Proposed Transaction will result in enhanced financial, managerial and technical expertise for CUPA, which will benefit its customers. It combines two strong water and wastewater utility holding companies that both possess financial, technical, and managerial expertise in the water and wastewater industries while also having a shared mission and shared values. The Proposed Transaction is highly complementary and allows for the sharing of prudent practices and operating experiences (both at the corporate level and regionally/locally)

to support the creation of a larger, stronger water and wastewater company that will support the safe, reliable and sustainable delivery of critical resources and services that will enhance the customer experience. Application at 12-14; CUPA St. No. 1 at 7-9; CUPA St. No. 3 at 13, 15; CUPA St. No. 4 at 12.

15. At the same time, the combining companies are geographically diverse. The Proposed Transaction will build a larger platform to facilitate needed investments in the communities served by the Corix Infrastructure Inc. (“CII”) and SWMAC operating companies, including CUPA, while continuing to add scale and grow in the future. The newly-created Intermediate Newco will have the scale to enhance the ability of its operating utilities (in this case, CUPA) to make important infrastructure investments that provide long-term benefits for the communities it will serve in Pennsylvania. The combined company’s investments in water and wastewater infrastructure improvements will further ensure high-quality service and high-quality water that is safe, reliable, sustainable, and affordable. Application at 12-14; CUPA St. No. 1 at 7-9; CUPA St. No. 3 at 14-15; CUPA St. No. 4 at 12.

16. To that end, the Proposed Transaction will allow for improved financing terms compared to present day and will improve CUPA’s access to capital needed to support further investment in facilities and systems that would improve service to Pennsylvania customers. Application at 12; CUPA St. No. 2 at 10 (“CUPA will have superior access to common equity.”) (“CUPA will have comparable access to the debt capital market and either similar or superior access to bank credit relative to its current situation”); CUPA St. No. 3 at 16.

17. The Proposed Transaction will have operational benefits as well and will increase emergency response resources, which will further benefit customers. SWMAC and CII share common values centered on safety, environmental stewardship, integrity, employee

empowerment, and excellence in serving their customers and delivering on their commitments to stakeholders. These shared values provide an opportunity for operational improvement that follows from sharing prudent practices and resources. CUPA St. No. 1 at 9; CUPA St. No. 3 at 15. This sharing of practices and resources will likewise reduce operational risk, as being part of a larger organization results in more resources, such as equipment, tools, inventory, and other assets that can be shared or leveraged in response to emergencies and natural disasters. It also reduces operational risk by connecting to a broader group of vendors, providing for optionality in day-to-day operations and emergencies. For example, if a natural or man-made disaster (e.g., a tornado or cyber breach) were to disrupt CUPA operations or operations staff, CUPA would be able to draw from a larger pool of employees familiar with CUPA's processes, and these employees would be ready, willing, and able to assist CUPA's operations. CUPA St. No. 1 at 10-11.

18. The sharing of prudent practices that will result from the Proposed Transaction will also improve CUPA's performance, thereby benefiting its customers. Sharing these practices involves identifying optimal ways of efficiently performing certain tasks and operations and then implementing those practices deemed prudent. For example, the combining companies may share methods of addressing customer service complaints, compliance with environmental regulations, safety initiatives, data security programs, and operational techniques. In short, sharing of prudent practices promotes continuous improvement, which ultimately leads to benefits for customers. CUPA St. No. 1 at 10.

19. The Proposed Transaction will also provide affirmative public benefits because it will be seamless to customers and will provide continuity of management and operations. CUPA will continue to operate and charge duly authorized rates under the terms of service previously

approved by the Commission as a Pennsylvania public utility subject to the continuing jurisdiction of the Commission. CUPA St. No. 1 at 6-7. The Proposed Transaction will likewise retain the strong corporate citizenship and presence of CUPA in Pennsylvania. Application at 12; CUPA St. No. 1 at 5-7.

20. There are expected to be financial benefits as a result of the Proposed Transaction as well. For example, the combination of two boards of directors into a single board and the combination of two executive leadership teams into a single team is expected to reduce costs. Because these costs – board governance and senior executive – are subsequently allocated through the corporate allocation process to individual utilities (including CUPA) and reflected in customer rates, customers are expected to benefit as the net savings are allocated to individual utilities and reflected in rates in future proceedings. Application at 14; CUPA St. No. 1 at 9; CUPA St. No. 3 at 13-16.

21. While the Proposed Transaction is not driven by operational synergies, it is expected to produce longer-term financial benefits as the integration of CII's and SWMAC's water and wastewater businesses occurs methodically and systematically over time, where improved efficiency and the integration of administrative and general functions should result in cost savings. Any costs and benefits of integration will be addressed in future ratemaking proceedings, and customers will benefit from those improved operations. CUPA St. No. 3 at 16.

22. Taken together, it is expected that, over time, these lower costs (and/or the ability to better control costs as a larger entity) will help CUPA keep its water and wastewater utility rates lower than the rates would have been in the absence of the transaction. CUPA St. No. 1 at 11.

23. Additionally, the increased scale, expertise and financial resources that will result from the Proposed Transaction will provide further affirmative public benefits by positioning the

Company for continued growth in Pennsylvania. The Company has continued to expand its presence in Pennsylvania through acquisitions, such as the service territory now known as Tamiment, f/k/a Pennsylvania Utility Company. As the Commission recognized, CUPA acquired Tamiment in 2019 in a state of disrepair and, prior to seeking a rate increase for Tamiment customers, had already made significant upgrades, repairs, and replacements. The merger will only improve the Company's ability to continue to grow its operations in Pennsylvania and enhance local scale, purchasing power, and operational efficiencies. Application at 14-15; CUPA St. No. 1 at 7; CUPA St. No. 3 at 16.

24. Finally, CUPA will continue to be locally managed, with local employees, facilities, and offices. And CUPA will continue to support the communities it serves. CUPA St. No. 3 at 16.

25. In addition to these affirmative public benefits that will result from the Proposed Transaction, the combined companies made the following commitments to protect CUPA's customers (CUPA St. No. 3 at 19-20; CUPA St. No. 4 at 10-12):

- CUPA will continue to provide high-quality water and wastewater utility services to CUPA's customers.
- CUPA will continue to maintain a strong local presence in Pennsylvania in terms of employees, facilities and offices, and community support.
- The combined companies have incurred and will incur transaction costs. The combined companies, including CUPA, will not seek to recover transaction costs from customers.
- While the Proposed Transaction is not driven by net financial synergies, the combined companies anticipate that the business combination will improve efficiency and the integration of administrative and general functions should result in cost savings.⁶ The integration of CII's water, wastewater and related businesses with SWMAC's water and wastewater business will be a significant, prolonged undertaking. The combined companies acknowledge that costs and benefits associated with integration will be addressed in future ratemaking proceedings.

- CUPA will not guarantee any debt or credit instrument of Intermediate Newco or any affiliate of CUPA unless such debt is incurred for the specific purpose of CUPA’s system or operations.⁷ CUPA will obtain any necessary Commission approvals related to issuing securities pursuant to 66 Pa.C.S. § 1901.
- The proceeds of any debt incurred by CUPA will only be used for purposes specific to the CUPA system or operations.
- CUPA will not transfer any material asset to Intermediate Newco or an affiliate except in an arm’s length transaction and in compliance with the laws of the Commonwealth of Pennsylvania and subject as necessary to first obtaining Commission approval.
- The combined company will be established with a target investment grade capital structure profile and operated in a way that is consistent with maintaining an investment grade profile.
- The combined company, including CUPA, will refrain from any involuntary reduction in force related to the combination for the first 12 months after the transaction closes.⁸
- CUPA will present any new affiliated interest and/or shared services agreements to the Commission for approval pursuant to the Commission’s rules.

26. In recognition that not all parties to the proceeding agreed that all of the benefits identified in the Application satisfied the prevailing legal standards noted above, the Settlement has layered the following *additional* substantial affirmative public benefits of the Proposed Transaction:

1. Operational Stability (Joint Petition ¶¶ 49-50)

27. **Office Location.** CUPA has agreed that it “will maintain its principal business address in East Stroudsburg, Pennsylvania unless relocation of the office is necessary for CUPA to properly manage day-to-day operations.” Joint Petition ¶ 49. This benefits customers by ensuring a local office is available and the location of the office will not change unless necessary for day-to-day operations, thus providing stability for customers.

28. **Access to Capital.** CUPA has agreed that it will “have access to capital needed to support continued prudent investment in its facilities, systems, and staff that will improve service

to Pennsylvania customers.” Joint Petition at ¶ 50. Customers benefit from prudent investment in facilities, systems and staff through both improved service. Moreover, ensuring adequate access to capital may result in lower costs to customers over the long run.

2. Billing and Customer Service (Joint Petition ¶¶ 51-53)

29. **Volumetric rates.** CUPA has agreed to “undertake commercially reasonable efforts to obtain the information that it needs to develop and bill volumetric rates for wastewater customers who do not receive water service from CUPA in the service territory formerly known as Utilities, Inc. of Pennsylvania.” Joint Petition at ¶ 51. This term furthers and renews a settlement term from CUPA’s prior base rate proceeding. CUPA was unable to obtain the data necessary to propose volumetric rates within the timeline proposed in the base rate case settlement. The Settlement here thus extends and renews CUPA’s commitment to use commercially reasonable efforts to obtain the necessary data and propose volumetric rates for customers, which would provide customers greater control over the cost of wastewater utility bills.

30. **Call Center Customer Service.** CUPA has committed that, at closing, the current process for customer call handling will continue to be in place, i.e., when CUPA customers contact customer service, they are directed to a customer service representative responsible for customers in Pennsylvania. Joint Petition at ¶ 52. This stability in customer service benefits customers and leads to better outcomes for customer calls.

31. **Tamiment Customer Meeting.** CUPA has agreed to hold a customer meeting in the Tamiment service territory within 60 days after entry of an order approving the Proposed Transaction that is open to the public and will allow for in-person and virtual participation and will include Corix US representatives who have knowledge and authority to respond to questions and concerns regarding high bill complaints, water quality, training for call center representatives, and other issues identified in advance. Joint Petition at ¶ 53. This outreach and interaction with

customers will benefit customers who may have questions about their service and bills and provides an open forum for discussion to give customers information and to help them better understand their water and wastewater utility service and billing.

3. Low-Income Programming (Joint Petition at ¶¶ 54-57)

32. **Low Income Rates.** CUPA has agreed to propose low-income water and wastewater rates in its next two base rate cases. Joint Petition at ¶ 54. CUPA proposed, and the Commission approved, a low-income rate pilot program for water customers in CUPA's last base rate case. This Settlement term provides a benefit to low-income customers because CUPA is now committed to proposing in its next two base rate cases low-income rates to assist customers with financial hardship. CUPA, as a water and wastewater utility, is not statutorily required to provide assistance for low-income ratepayers. Moreover, low-income assistance programs cannot be unilaterally ordered by the Commission where it is not statutorily required.¹ Thus, this is a benefit for low-income customers that would not be achieved absent the Settlement.

33. **Arrearages Management Program.** CUPA has agreed to propose an arrearage management program in its next base rate case for both water and wastewater customers. Joint

¹ See generally 66 Pa. C.S. §§ 101 *et seq.* (requiring Universal Service Programs for electricity and natural gas distribution utilities, but not water or wastewater utilities); see also *U.S. Steel Corp.*, 390 A.2d at 870-71 (“Decisions concerning the kind and extent of subsidy which should be afforded to needy residential customers should, it seems, be left by regulatory agencies and courts to the legislative branch of government, as indeed the Commission seems to have concluded in its Generic Study just mentioned. Certainly there is nothing in Pennsylvania law which now empowers the Commission to require one customer simply to pay another’s utility bill; and, as we have mentioned, the utility may not and could not for long be required to provide such subsidy out of its capital.”); *Western Pennsylvania Water Co. v. Pa. Pub. Util. Comm’n*, 370 A.2d 337 (Pa. 1977) (*Western Pa. Water. Co.*) (“It follows that the Commission, in attempting to insert the disputed jurisdictional condition into the certificate of public convenience, was engaging in a futile act. If, the Commonwealth Court to the contrary, the legislature has in fact endowed the Commission with the power it claims, then the condition would be a truism. If the Commission has no such jurisdiction, then the attempt to create such jurisdiction by agreement with the Water Company would be invalid. We are of the view that the Commission’s attempt to resolve a dispute of statutory jurisdiction by imposition in a certificate of a condition supportive of its view is an error of law.”); *Joint Application of Equitable Resources, Inc., and The Peoples Natural Gas Company, d/b/a Dominion Peoples, for Approval of the Transfer of All Stock and Rights of the Peoples Natural Gas Company to Equitable Resources, Inc., and for the Approval of the Transfer of all Stock of Hope Gas, Inc., dba Dominion Hope, to Equitable Resources, Inc.*, Docket No. A-122250F5000, 2007 WL 1175710 (Opinion and Order entered Apr. 13, 2007) (refusing to impose a pension obligation as a condition to obtaining a certificate of public convenience because Commission has no jurisdiction over such requirements).

Petition at ¶ 54. This will benefit customers with arrearages by helping them get on track with paying utility bills and thus benefiting all customers by providing a mechanism to reduce uncollectible account balances while maintaining service. CUPA is not statutorily required to provide assistance for arrearages management, and the Commission cannot unilaterally order CUPA to do so.² Thus, this is a benefit for customers that would not be achieved absent the Settlement.

34. **Retroactive Application of Low-Income Rates.** To implement its current low-income rate pilot program for water customers, CUPA had to contract with a third-party to conduct eligibility review and determination. Getting a third-party contracted to conduct this process took time, and extended beyond the date on which CUPA began accepting applications for the low-income program. CUPA has agreed as a Settlement term to retroactively apply the low-income rate for eligible customers to the date on which the customer applied for the program. Joint Petition at ¶ 55. This Settlement term benefits eligible customers in that the low-income rate will apply as of the date on which the customer applied for the program; the time it took to get a third-party in place to review and determine eligibility will not prevent eligible customers from receiving the low-income rate as of the date on which they applied.

35. **Increasing Low-Income Program Enrollment.** CUPA has agreed to take specific steps to increase enrollment in its low-income program. Joint Petition at ¶ 56. This term benefits customers by providing additional customer contacts and means of accessing information about the low-income program, including information provided via bill inserts, CUPA's website, and training call center representatives. This is a benefit that would not be achieved but for the

² *Supra* n. 1.

Settlement because the Commission cannot unilaterally order CUPA to provide a low-income program or how CUPA is to provide notice of such a program.

36. **Expansion of Low-Income Rate Eligibility.** CUPA has agreed, in its next base rate case, to propose to increase eligibility to the low-income program from customers with income at or below 100% of the Federal Poverty Level (“FPL”) to customers with income at or below 200% of the FPL. Joint Petition at ¶ 57. This eligibility expansion will allow the low-income rates to benefit more customers, helping those customers who may not be eligible for governmental assistance programs that only provide eligibility for those with income up to 100% of the FPL. Again, CUPA is not statutorily required to provide, or expand access to, low-income rates, and the Commission cannot unilaterally require CUPA to provide low-income rates up to 200% of the FPL. Accordingly, this is a benefit that would not exist absent the Settlement.

4. **Rate Protections (Joint Petition ¶¶ 58-64)**

37. **Non-Recovery of Transaction Costs.** CUPA has agreed to a specific and broad definition of transaction costs and that CUPA will not seek to recover such costs from customers. Joint Petition at ¶ 58. There is no statutory prohibition on CUPA seeking recovery of such costs in its next base rate case, so CUPA’s agreement not to seek recovery of these costs from customers is a direct rate savings benefit to customers.

38. **No Acquisition Adjustment.** CUPA has agreed not to seek an acquisition adjustment pursuant to 66 Pa. C.S. § 1327. Joint Petition at ¶ 59. Section 1327 allows utilities to seek and claim in rate base the difference between the purchase price and original cost minus depreciation of utility property. CUPA’s agreement not to seek such adjustment is a direct rate savings benefit to customers.

39. **Rate Case Litigation Terms.** CUPA has agreed to various terms that preserve issues and evidence for future rate cases. Joint Petition at ¶ 58b, 60, 61, 64. These terms benefit

the OCA, which is an advocate for residential customers, by providing OCA with greater ability and information to challenge claims in future base rate proceedings that OCA may not agree are just and reasonable, thus benefiting customers.

40. In sum, the Proposed Transaction, as modified by the terms and conditions of the Settlement, will provide substantial affirmative benefits necessary to meet the test for utility acquisitions as set forth in *City of York* and *Popowsky*, and is in the public interest.

B. Technical, Financial, and Legal Fitness

41. As a certificated public utility, the Company has already been determined by the Commission to be financially, technically, and legally fit. Moreover, “[a] certified public utility ... enjoys a presumption that it is fit.” *McCloskey v. Pa. P.U.C.*, 195 A.3d 1055, 1058 (Pa. Cmwlth. 2018).

42. As CUPA stated in its Application, the Proposed Transaction will not negatively impact CUPA’s continuing financial, technical, and legal fitness to own and operate a water and wastewater utility in Pennsylvania. Application at ¶¶ 27-31.

43. No party challenged the presumption that CUPA is and will remain technically, financially, and legally fit.

C. No Adverse Effect on Competition

44. The Proposed Transaction will not result in any anti-competitive or discriminatory conduct, particularly as SWMAC does not own or operate any utilities in Pennsylvania. The Proposed Transaction will not reduce competition in Pennsylvania. Application at ¶ 32(h).

D. Adoption of the Settlement is in the Public Interest

45. It is the Commission’s policy to encourage settlements. 52 Pa. Code § 5.231. The Commission reviews proposed settlements to determine whether the terms are in the public

interest. For the reasons set forth below, adoption of the Settlement embodied in the Joint Petition is in the public interest, and it should be approved without modification.³

46. The Settlement amicably and expeditiously resolves a number of important and diverse issues which would have been expensive and time-consuming to fully litigate before this Commission and may have spawned expensive and time-consuming appeals. This Settlement represents a mutually acceptable and reasonable compromise, and will conserve the time, effort, and expense of all parties, as well as those of the Commission and the Presiding Officer.

47. The Joint Petitioners arrived at the Settlement terms after review of the Application, responses to discovery by the OCA, review and analysis of direct, rebuttal, surrebuttal, and rejoinder testimony, and in-depth discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues raised by the Application. Thus, the Settlement is consistent with the Commission's rules, practices, and procedures encouraging negotiated settlements. *See* 52 Pa. Code §§ 5.231, 69.391, 69.401.

48. As described above, the Settlement provides affirmative public benefits to customers, including specific benefits for low-income customers.

49. Moreover, the Settlement provides a significant number of customer benefits that would not be available in this proceeding outside the context of settlement, including proposing low-income rates in CUPA's next two base rate cases for water and wastewater customers, proposing an arrearages management program in its next base rate case for water and wastewater customers, taking steps to increase low-income program enrollment, and expanding low-income rate eligibility to 200% of the FPL.

³ The Commission's rules expressly contemplate the use of statements in support as the basis for consideration and approval of settlements. *See* 52 Pa. Code § 232(a) ("[P]arties should include in settlement agreement statement(s) in support of settlement explaining how and why the settlement is in the public interest).

50. The OCA is charged with specific legal obligations to carefully scrutinize all aspects of a utility acquisition. The OCA has a statutory obligation to protect the interest of consumers of public utility service.⁴ *See* 71 P.S. §§ 309-1, *et. seq.* As evidenced by its active and extensive participation in all aspects of this case, the OCA has discharged its statutory obligations. OCA's joining in and fully supporting the Settlement demonstrates the Settlement's terms and conditions are just, reasonable, and in the public interest.

III. CONCLUSION

CUPA, Corix US, and SWMAC respectfully submit that the Proposed Transaction, including as modified by the terms and conditions of the Settlement, provides substantial affirmative public benefits, is in the public interest, and in accordance with the law, and request that the Honorable Administrative Law Judge Mary Long recommend approval of, and the Commission approve, the Application, as modified by the terms and conditions of the Settlement, including all regulatory approvals requested therein without modification or delay.

Respectfully Submitted,

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Dated: May 24, 2023

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⁴ *See* 71 P.S. §§ 309-1, *et. seq.*

APPENDIX B

Office of Consumer Advocate Statement in
Support

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Community Utilities of	:	
Pennsylvania, Inc. for Certificates of Public	:	
Convenience under Sections 1102(a)(3) and	:	Docket Nos. A-2022-3036744
1103 of the Public Utility Code and All Other	:	A-2022-3036745
Approvals Necessary Under the Public Utility	:	
Code for Approval of a Merger of Equals	:	
Transaction	:	

OFFICE OF CONSUMER ADVOCATE
STATEMENT IN SUPPORT OF FULL SETTLEMENT

The Office of Consumer Advocate (OCA), one of the signatories to the Joint Petition for Full Settlement (Settlement) in the above-referenced matter, recommends that the Public Utility Commission (Commission) adopt the Settlement for the following reasons.

I. INTRODUCTION AND BACKGROUND

On November 9, 2022, Community Utilities of Pennsylvania Inc. (CUPA, Company or Applicant) filed Applications related to a change in control, under Sections 1102 and 1103 of the Public Utility Code, 66 Pa. C.S. §§ 1102, 1103. Specifically, the Applicant seeks the Commission’s approval of a proposed merger of Corix Infrastructure (US) Inc. (Corix US) and SW Merger Acquisition Corp. (SWMAC).¹ Application ¶ 1. Corix US indirectly owns 100% of CUPA. *Id.* at 4. As proposed, a new entity will be created, named Intermediate Newco, that will indirectly own 100% of CUPA, and all of the regulated water and wastewater utilities currently owned by Corix US’s parent (Corix Infrastructure, Inc. or CII) and SWMAC. *Id.* at 7, 14. CUPA serves approximately 3,278 water customers in Monroe County, Northampton County and Pike

County, Pennsylvania, and approximately 3,846 wastewater customers in Monroe County, Chester County, and Pike County, Pennsylvania.

On December 12, 2022, the OCA and the Office of Small Business Advocate (OSBA) filed Protests. The OCA preliminarily identified the following areas for investigation and consideration:

- Whether the transaction would have adverse tax effects or financial impacts for ratepayers.
- Whether the transaction is in accordance with the Public Utility Code and applicable Commission rules and regulations. *See* 66 Pa. C.S. §§ 1102, 1103, 1301, 1501.
- Whether the proposed change of control will affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way. *City of York v. Pa. PUC*, 449 Pa. 136, 141, 295 A.2d 825, 828 (1972). The Application includes a list of commitments to customers that would appear to mitigate harm. Application ¶ 36. The OCA will review the proposed transaction to ensure that it affirmatively benefits customers.
- Whether any conditions should be imposed on the proposed transfer of control. *See* 66 Pa. C.S. § 1103(a).

OCA Prehearing Memorandum at 2-3. The OCA anticipated that the issues raised by the proposed change in control could be narrowed or resolved through the informal exchange of information and settlement discussions. Following extensive informal discovery and discussion with the Applicants and the OSBA, all parties reached a Settlement that proposes modifications and additions to the Application initially filed by the Applicants. The Settlement requests Commission approval of the Applications, as modified by the terms and conditions of the Settlement.

For the reasons discussed below, the OCA supports adoption and approval of the Settlement, without modification.

¹ CUPA named and joined Corix US and SWMAC as necessary parties to this proceeding. Application ¶¶ 4, 5.

II. THE APPLICATIONS, AS MODIFIED BY THE SETTLEMENT, MEET THE REQUIREMENTS FOR COMMISSION APPROVAL

Through review of the Applications, discovery and discussions, the OCA reached agreement with the Applicants on terms and conditions to modify the Application, which are provided in the Settlement. A number of those provisions are directed to preventing harm to CUPA customers resulting from the transfer of control. The OCA submits that other provisions will benefit customers, as discussed below. For these reasons, the OCA supports approval of the Settlement without modification.

A. Proposed Modifications to the Transaction

1. Operational Stability (¶¶ 49-50)

In its testimony, the OCA raised concerns that, as filed, the proposed transaction lacked commitments to ensure that new ownership will not negatively impact CUPA's operations. Of particular concern, CUPA did not commit to how long it will keep its headquarters in East Stroudsburg or in Pennsylvania. As OCA witness DeAngelo explained, because CUPA is the only public utility subsidiary of the combining companies that is located in Pennsylvania, it is important for the combining companies to show their commitment to Pennsylvania customers by keeping CUPA's principal office in Pennsylvania and in a location central to its operations (East Stroudsburg). OCA St. 1 at 6. While CUPA indicated it has no plans to relocate the office and also provided assurances that it will always require a location to base Pennsylvania employees and store utility equipment and materials, it argued that relocation of the office might become necessary in the future for CUPA to properly manage day-to-day operations. CUPA St. No. 1R at 2; CUPA St. 4R at 2; OCA St. 1SR at 5. Paragraph 49 is a compromise that recognizes both parties' concerns: "CUPA will maintain its principal business address in East Stroudsburg, Pennsylvania unless relocation of the office is necessary for CUPA to properly manage day-to-

day operations.” The OCA submits that corporate presence and public access to the utility, as this condition provides, is valuable to both the utility and the public in general.

The OCA also raised the concern that the proposed transaction did not ensure that CUPA would have access to capital to support investment adequate to maintain service to customers because, as a subsidiary, CUPA cannot access capital that is not provided by the corporate parents. OCA St. 1 at 5-6; OCA St. 1SR at 3-4. CUPA responded that post-transaction, it will have access to the same sources of debt capital as it does today and may also have additional access to sources that have relationships with its new affiliates. CUPA St. 3RJ at 8. While that does not fully address the OCA’s concern, the parties agreed to a stronger commitment by CUPA that it will (1) continue to maintain sufficient staff, facilities, and operating skills consistent with its obligation to serve customers in Pennsylvania, (2) meet the service needs of its customers in accordance with the Public Utility Code and applicable provisions of the Commission’s regulations, and (3) have access to capital needed to support continued prudent investment in its facilities, systems, and staff that will improve service to Pennsylvania customers. Settlement ¶ 50. This commitment will contribute to operational stability and the provision of safe and adequate water and wastewater service post-restructuring.

2. Billing and Customer Service (¶¶ 51-53)

Currently, CUPA wastewater customers in its Utilities Inc. of Pennsylvania (UIP) service territory are charged flat rates for service. OCA St. 1 at 7-8. This was an issue raised in CUPA’s recent base rate case. In its Order approving the settlement of that proceeding, the Commission supported the expansion of metered rates to the UIP customers, stating:

We concur with the Joint Petitioners that there is no question that volumetric billing is preferable to flat rate billing, as it provides better price signals and promotes conservation. In addition to encouraging the conservation of water and

wastewater services, volumetric billing also results in a more equitable distribution of the variable costs of wastewater service among ratepayers.

Pa. PUC v. Community Utilities of Pa., Inc. – Water Division, Order at 68-69 (Jan. 13, 2022) (2022 Order). As a term of that settlement, CUPA agreed to reach out to the utility that provides water service to customers in the UIP service territory by February 14, 2022, to establish an ongoing arrangement to obtain monthly volumetric usage data for the purpose of proposing metered rates. However, that commitment was contingent on CUPA obtaining the customer usage data by March 1, 2023 in usable format. 2022 Order at 15; OCA St. 1, App. B. at 7-8; OCA St. 1SR at 7.

In this proceeding, the OCA renewed its recommendation that CUPA propose metered rates for UIP customers in its next base rate proceeding. OCA St. 1 at 8; OCA St. 1SR at 6-7. As of April 2023, CUPA had received one month of data, which it determined to be in usable format, and was in the process of negotiating a contract to obtain additional historical data from the customers' water provider. OCA St. 1SR at 7, App. I (CUPA supplemental response to OCA Set I-4). In his rebuttal testimony, CUPA witness Hill discussed that CUPA needs historical usage data to project future usage and to design rates. CUPA St. 1R at 3. In Paragraph 51 of the Settlement, CUPA committed that if it obtains at least six months' worth of usage data for the relevant customers at least two months before the next base rate case filing, it will propose volumetric rates in that proceeding. Further, the Settlement provides that:

if CUPA is unable to obtain the necessary information in this time frame, CUPA commits to proposing volumetric rates in a subsequent base rate proceeding once it has obtained the necessary information. Every 45 days until metered rates are proposed, CUPA will file a report in this docket regarding its progress in obtaining the usage data.

Settlement ¶ 51. Ultimately, CUPA is in control of whether it files its next rate case before obtaining the data. Together the Settlement provisions help to ensure that metered rates are

established for UIP customers as soon as possible. If that does not happen in the next base rate case, then CUPA will be subject to frequent reporting requirements so the Commission and OCA can monitor its efforts.

The OCA also provided recommendations in this proceeding regarding customer service. As explained by OCA witness DeAngelo, CUPA's call centers are located in North Carolina, Florida, and Illinois – and not in Pennsylvania. OCA St. 1 at 8. It is important the customer service representatives are familiar with Pennsylvania-specific rights and protections. *Id.* at 9. Settlement Paragraph 53 reflects CUPA's commitment to continue the current process where, when CUPA customers contact customer service, they are directed to a customer service representative responsible for customers in Pennsylvania. This helps to ensure that customer service does not degrade as a result of the merger.

The OCA raised an additional concern about customer service, noting that between January 2022 and January 2023, CUPA received 63 complaints and inquiries from customers in the Tamiment service territory about a variety of service issues, including water quality, high and low pressures, outages, and water and sewer breaks. OCA St. 1 at 9-10, App. D; OCA St. 1SR at 8-9. The OCA recommended that if the proposed merger is approved, CUPA should be required to hold a public meeting in the Tamiment service territory within 60 days after entry of an order in this proceeding. The OCA also recommended that Corix US representatives should attend the meeting who have knowledge and authority to respond to questions and concerns regarding high bill complaints, water quality, training for call center representatives, and other issues identified in advance by the Glen at Tamiment Property Owners Association or customers. Additionally, within 60 days after the meeting, CUPA should file a report at this docket summarizing its actions to address questions and complaints raised during the meeting. OCA St. 1 at 10.

Paragraph 54 of the Settlement fully adopts the OCA's recommendation. As OCA DeAngelo explained, holding a public meeting is a reasonable condition for approval of the proposed transaction:

[I]t will provide a benefit to customers in CUPA's Tamiment service area, where there have been a number of complaints. The meeting will provide an opportunity for CUPA to hear from and respond to those customers' concerns, in addition to demonstrating the utility's stated commitment to providing high-quality service. Furthermore, the report filed post-meeting will allow the Commission and stakeholders to monitor CUPA's response and will provide information that can inform review of CUPA's service quality in the next base rate case.

Id.

3. Low-Income Programming (¶¶ 54-57)

Currently, CUPA has a low-income rate pilot program for residential water customers that provides a 35% discount to regular residential volumetric rates and has committed to propose a similar program for wastewater customers in its next base rate case. *2022 Order* at 16; CUPA St. 1 at 7. The OCA raised several concerns regarding CUPA's low-income programming in its testimony. The OCA observed that CUPA's discounted rate was designed on the assumption that 420 customers would participate monthly. OCA St. 1 at 11, App. E (CUPA response to OCA Set I-6). According to CUPA, 16 customers have requested participation, those customers are being reviewed for eligibility, and no CUPA customer has started receiving a bill discount. *Id.*, App. F (CUPA's Low Income Quarterly Update for Fourth Quarter 2022. Further, nine of the 16 applicants requested participation prior to April 29, 2022. *Id.* at 12, App. G.

In response to the last concern, the OCA recommended and CUPA agreed that it will apply the low-income discount retroactively to the bills of customers who requested participation in the program and are found eligible. OCA St. 1 at 12; Settlement ¶ 55. This is reasonable given the length of time some customers have waited to enroll.

To address low participation, the OCA recommended that CUPA take several steps intended to increase understanding and awareness about the discounted rate program and support enrollment. OCA St. 1 at 11; OCA St. 1SR at 9-10. CUPA agreed to the OCA's recommendations with minor modifications. Settlement Paragraph 56 provides that, within 30 days after entry of an order approving the proposed transaction, CUPA will:

- Send to all residential water customers a bill insert containing information about CUPA's low-income program, eligibility requirements, and how to enroll.
- Add and maintain updated information on CUPA's website about the bill discount program in its current or future forms that is readily accessible from the home page.
- Provide reasonable training to customer service representatives about the CUPA low-income program, including eligibility criteria and ways to enroll.

Settlement ¶ 56.

The OCA also identified that CUPA's low-income rate pilot program is limited to customers at or below 100% of FPL. OCA St. 1 at 13. The OCA recommended that, if the proposed merger is approved, it should be conditioned on the requirement that CUPA establish a hardship program that applies one-time (per year) assistance grants directly to water and wastewater bills for customers income at or below 200% of the federal poverty guidelines (FPL). *Id.* For purposes of settlement, in lieu of a hardship program, CUPA agreed that, in its next base rate case, CUPA will propose to increase eligibility for the low-income program from 100% to 200% of the FPL. Settlement ¶ 57. This compromise responds to the OCA's concern about CUPA customers who are between 101% and 200% of FPL and, combined with the other conditions of the Settlement, helps to ensure that the proposed transaction will benefit CUPA customers, by helping more customers to maintain their service.

4. Rate Protections (¶¶ 58-64)

The OCA raised concerns that, as filed, the proposed transaction could increase rates for CUPA customers by requiring them to pay for transaction costs, termination fees and damages under Section 10.2(c) of the Transaction Agreement, acquisition adjustments, and a goodwill adjustment or financing goodwill. OCA St. 1 at 5-6; OCA St. 1SR at 2-3. The OCA recommended that no transaction costs, as defined to include the costs above, should be recorded on the books or included in the rates of CUPA in any way, including but not limited to rate base, operating expenses, or capital structure. *Id.* at 5. The Settlement addresses each of these concerns, in full or part, through CUPA's commitment that it will not seek to recover transaction costs, incentive and retention payments related to the transaction, termination fees, acquisition adjustments, or any entries that will impact CUPA's rate base for ratemaking purposes. Settlement ¶¶ 58, 59. To the extent that any aspect of the transaction does impact non-rate base components of the CUPA ratemaking formula, such as cost of capital, the OCA and OSBA reserve the right to challenge the reasonableness, prudence and basis of the claim, impact or adjustment. *Id.* ¶¶ 58, 60, 61. CUPA will identify, for at least the first two rate cases post-closing, if the cost of capital claimed for establishing water and wastewater rates for CUPA reflects any risk adjustment associated with its corporate parents or any affiliate not regulated by the Commission, or any equity or debt issued to finance goodwill. *Id.* ¶¶ 60, 61. In addition, Settlement Paragraph 62 requires that until and unless the company enters into a new affiliate interest agreement after closing, CUPA will continue to use its existing affiliate interest agreement to allocate corporate shared services costs. Any new affiliate interest agreements must be presented to the Commission for its approval pursuant to Section 2102 of the Public Utility Code, 66 Pa. C.S. § 2102.

Cumulatively, these provisions will help to protect Pennsylvania customers from rate increases resulting from the proposed merger. Accordingly, the OCA submits that these provisions provide a benefit.

The OCA also noted in its testimony that the proposed transaction requires 15 regulatory approvals in the United States and two in Canada and the majority of those applications are still pending. OCA St. 1 at 15-16, App. D; OCA St. 1SR at 12, App. H; OCA Exh. D-1. The OCA recommended that, if those other jurisdictions receive favorable commitments, the same protections should be afforded to Pennsylvania customers also. The Settlement addresses this recommendation, in part, by adopting two commitments that the merging entities made in other jurisdictions. OCA Exh. D-1. Paragraphs 63 and 64 of the Settlement provide:

63. Within sixty (60) days after the Proposed Transaction closes, CUPA will file a report with the Commission, copied to OCA and OSBA, notifying them of the date the Transaction was completed/closed.

64. For five years after the closing date, CUPA will track and quantify all the benefits (both qualitative and quantitative) customers in its service territory are receiving under its new ownership. CUPA will submit that information in any future base rate case in which such tracked benefits accrue in the test years applicable to the particular rate filing(s).

Information regarding merger benefits will assist the Commission and interested parties to review and evaluate CUPA's rate case claims post-merger. As with the other provisions addressing information that CUPA will provide regarding claims for risk adjustment, financing for goodwill, and allocations for corporate shared services costs, the OCA submits that these provisions provide a benefit by helping to protect Pennsylvania customers from rate increases resulting from the proposed merger.

B. TECHNICAL, LEGAL, AND FINANCIAL FITNESS

The OCA did not address fitness in its testimony. The OCA expects that CUPA will discuss the stipulations and proposed findings of fact bearing on this matter and how those parts of the Settlement support the public interest standard required for Commission approval.

C. NO ADVERSE EFFECT ON COMPETITION

The OCA did not address competition in its testimony. The OCA expects that CUPA will discuss the stipulations and proposed findings of fact bearing on this matter and how those parts of the Settlement support the public interest standard required for Commission approval.

D. ADOPTION OF THE SETTLEMENT IS IN THE PUBLIC INTEREST


The Commission encourages parties in contested, on-the-record proceedings to settle cases. *See* 52 Pa. Code §§ 5.231, 69.401. A Settlement, by definition, reflects a compromise of the parties' positions. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 (Opinion and Order entered July 14, 2011) (citing, *Warner v. GTE North, Inc.*, Docket No. C-00902815 (Opinion and Order entered April 1, 1996); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Associates*, 74 Pa. PUC 767 (1991)).

While the Settlement does not include all of the OCA's recommendations, the OCA recognizes that the Settlement is a product of compromise and represents a balance of the signatory parties' positions. Taken as a whole, the agreed upon Settlement is a reasonable resolution that reflects the range of likely outcomes in the event of full litigation before the Commission. For the reasons detailed above in Section II.A, the Settlement is in the public interest.

III. CONCLUSION

The OCA believes that, taken as a whole, the commitments contained in the Application, as modified by the Stipulation, provide substantial affirmative public benefits in accord with Pennsylvania Law and applicable precedent. For the foregoing reasons, the OCA respectfully requests that the Commission find the Joint Petition for Full Settlement to be in the public interest and approve the Settlement without modification.

Respectfully submitted,



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Dated: May 24, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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