BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2023-3043189
Office of Consumer Advocate	:	C-2023-3044289
Office of Small Business Advocate	:	C-2023-3044375
Mark Henderson	:	C-2023-3044156
Kathleen Schwartz	:	C-2023-3044190
Amanda Johnsen	:	C-2023-3044185
Adam Nemchick	:	C-2023-3044191
Kirk Spencer	:	C-2023-3044189
Keith Sauer	:	C-2023-3044218
Andrew Kulp	:	C-2023-3044225
Jim Davidson	:	C-2023-3044223
Robert K. Ralls	:	C-2023-3044220
Richard Tawadros	:	C-2023-3044244
Natalie Rarick	:	C-2023-3044234
Tracy M. Rutherford	:	C-2023-3044293
David Ross	:	C-2023-3044348
Phyllis Connelly	:	C-2023-3044352
Thomas J. Hollenbach	:	C-2023-3044389
Alecia M. Lilley	:	C-2023-3044359
Lynn Mugno	:	C-2023-3044365
Michelle White	:	C-2023-3044369
Dr. Mostafa Easa	:	C-2023-3044567
Lynn DeAcosta	:	C-2023-3044380
Jeff Henry	:	C-2023-3044406
Anh Duong	:	C-2023-3044354
Wiliam Cameron & Linda Long	:	C-2023-3044355
Nicole Glimp	:	C-2023-3044565
Anthony McCann	:	C-2023-3044578
Shanna Weagle	:	C-2023-3044399
Brian Dugas	:	C-2023-3044563
Todd Blum	:	C-2023-3044583
Jennifer Dianna	:	C-2023-3044394
Mallory & Glenn Kercher	:	C-2023-3044686
Danielle Gabriel	:	C-2023-3044683
Devon Landis	:	C-2023-3044442
Morgan Wengert	:	C-2023-3044426
Angelica Alvarez	:	C-2023-3044405
John P. Dolekary	:	C-2023-3044580
John Miller	:	C-2023-3044416
Carl & Sharon Winter	:	C-2023-3044607
Paul & Catherine Brown	:	C-2023-3044611

Raymond Volsario	:	C-2023-3044614
Matthew J. Miller	:	C-2023-3044429
William R. Thomas	:	C-2023-3044601
Horace R. Battle	:	C-2023-3044600
Christopher Blake	:	C-2023-3044443
Laura Semel	:	C-2023-3044461
Robert M. Nowotarski	:	C-2023-3044676
Matthew & Melissa Mengel	:	C-2023-3044673
Tracy Cosgrove	:	C-2023-3044672
Richard Peal	:	C-2023-3044622
Patricia A. Finley	:	C-2023-3044504
Joseph Donahue	:	C-2023-3044524
Robert Bifano	:	C-2023-3044534
Gary Sirois	:	C-2023-3044830
Michelle Zebrowski	:	C-2023-3044868
Mary Ann Maro	:	C-2023-3044869
Joel Hernandez	:	C-2023-3044872
Dan Nebeker o/b/o Coldwater Lemoyne Carwash	:	C-2023-3044874
Mary Chibatar	:	C-2023-3044876
Mary Tanealian	:	C-2023-3044576
Tao Lu	:	C-2023-3044585
Jennifer Cohen	:	C-2023-3044682
Carla Seidel	:	C-2023-3044679
Amy E. Dalton	:	C-2023-3044677
Nicholas Orman	:	C-2023-3044642
Jay Phillips	:	C-2023-3044707
Carl W. Tunall, Jr.	:	C-2023-3044725
Steven Solomon	:	C-2023-3044733
Debora A. Sokol	:	C-2023-3044768
Shaun Keperling	:	C-2023-3044801
Audrey Gerold	:	C-2023-3044785
Robert Anderson	:	C-2023-3044799
Carl Kupchunas	:	C-2023-3044826
Matthew Jordan	:	C-2023-3044813
Cindy Cabrera	:	C-2023-3044816
Marie Sweeney	:	C-2023-3044918
Pennsylvania-American Water Large Users Group	:	C-2023-3044871
West Norriton Township	:	C-2023-3044965
John J. Heilenman	:	C-2023-3044908
Thalia Karalis	:	C-2023-3044929
Daniel Bergey	:	C-2023-3044984
Richard Matijasich	:	C-2023-3044981
Nicholas Collette	:	C-2023-3045023
Angela P. Kern	:	C-2023-3045039

Dennis McConnell	:	C-2023-3045053
James & Peggy Lingwall	:	C-2023-3045054
Wolfram Milz	:	C-2023-3045055
Donald Jones	:	C-2023-3045059
Marie Dougherty	:	C-2023-3045061
Michael & Mary Weishner	:	C-2023-3045062
Michelle R. Miller	:	C-2023-3045063
Carol Patterson	:	C-2023-3045064
Zachary Sprowls	:	C-2023-3045072
Elizabeth Sprowls	:	C-2023-3045073
Catharine Anderson	:	C-2023-3045082
Kathleen Donell	:	C-2023-3045083
Paul & Eileen Miller	:	C-2023-3045084
Norman T. Carpenter	:	C-2023-3045085
David Duquette	:	C-2023-3045087
Wesley Hartman	:	C-2023-3045088
Don Anderson	:	C-2023-3045089
Melissa Harper	:	C-2023-3045090
Charles E. Schwering	:	C-2023-3045093
Beth A. Gandelman	:	C-2023-3045094
Catherine & Kenneth Green	:	C-2023-3045095
Violet B. Kern	:	C-2023-3045105
Paul J. Walaski	:	C-2023-3045113
Cindy Murphy	:	C-2023-3045123
Gino Purchiaroni	:	C-2023-3045124
Christopher Nicholson	:	C-2023-3045134
Richard Small	:	C-2023-3045121
Nancy and Charles Wilson	:	C-2023-3045138
Harry Haas	:	C-2023-3045137
Jean Ustaszewski	:	C-2023-3045146
Kathryn Wilson	:	C-2023-3045152
Thomas McAuliffe	:	C-2023-3045156
Keith Pinkerton	:	C-2023-3045159
Kelly Knapp	:	C-2023-3045185
Alicia W. Shussett	:	C-2024-3045187
Patrick F. Boyle	:	C-2024-3045190
Jefferson Township Municipal Authority, c/o Patricia Lawrence, Secretary	:	C-2024-3045202
Juan F. Ramos	:	C-2024-3045208
Kyle Donahue	:	C-2024-3045210
John Erbicella	:	C-2024-3045209
Angela Gilmore	:	C-2024-3045212
Tracy L. Duff	:	C-2024-3045220
Timothy J. Creelman	:	C-2024-3045249

Frank Cerra	:	C-2024-3045257
Thomas F. Miller	:	C-2024-3045261
Mark Schuette	:	C-2024-3045263
Andrea Devlin	:	C-2024-3045285
Alena Trently	:	C-2024-3045258
Vicki DiArchangelo	:	C-2024-3045278
Thomas C. Kidwell	:	C-2024-3045315
Barry S. & Ethel Wagner	:	C-2024-3045320
Priscilla T. Gentry	:	C-2024-3045341
Matthew & Heather Heliger	:	C-2024-3045343
Barbara Stettenbauer	:	C-2024-3045360
Elizabeth Clark	:	C-2024-3045366
East Norriton Township	:	C-2024-3045399
Beth A. Gandelman	:	C-2024-3045422
Naomi Conte	:	C-2024-3045457
Ryan Gandelman	:	C-2024-3045467
Priscilla Jovais & Walter Baginski	:	C-2024-3045871
George M. Kamage, Jr.	:	C-2024-3045968
Julia Wright	:	C-2024-3045983
Anita Sakevich	:	C-2024-3045907
Michael W. Knoll	:	C-2024-3045985
Joseph J. Koza	:	C-2024-3045992
Randy McDaniels	:	C-2024-3045701
Christine Janiga	:	C-2024-3045987
Nereida Colon-Gonzalez	:	C-2024-3045788
Ruth McMullan	:	C-2024-3045997
Miranda Connors	:	C-2024-3046001
Deborah Nystrom	:	C-2024-3046000
Lora Gibb	:	C-2024-3045999
Ernest & Kathy Mayer	:	C-2024-3046292
Kathleen & William Nole	:	C-2024-3046296
Frances S. Kearney	:	C-2024-3046246
William Stevens	:	C-2024-3046071
Joe Dominick	:	C-2024-3046262
Andrea O'Neill-Hoffman	:	C-2024-3046195
Leslie Spindler	:	C-2024-3046230
Richard Brill	:	C-2024-3046111
Josephine Roman	:	C-2024-3046059
Mildred Decelles	:	C-2024-3046085
Gerald Smurl	:	C-2024-3046220
William Roman	:	C-2024-3046082
Harold Kiefer	:	C-2024-3046263
James G. Haggerty	:	C-2024-3046164
Ronald Benke	:	C-2024-3046112

Jodi Mayer	:	C-2024-3046291
James Wynder	:	C-2024-3046294
Billydon Hickson	:	C-2024-3046079
Elaine F. Campbell	:	C-2024-3046261
John Borer	:	C-2024-3046172
Thomas Tomeo	:	C-2024-3046047
Mary McKenna	:	C-2024-3046218
Bill Gaughan	:	C-2024-3046094
Jimmy Allen	:	C-2024-3046080
Mark Mecca	:	C-2024-3046055
Chris Casciano	:	C-2024-3046114
John Laskowski	:	C-2024-3045814
Colleen M. Gaughan	:	C-2024-3046044
Sean McAndrew	:	C-2024-3046252
Brian Cadugan	:	C-2024-3046169
Timoth Brier	:	C-2024-3046254
Joseph Baronski	:	C-2024-3046170
Michael Bussacco	:	C-2024-3046240
Robert Meyers	:	C-2024-3046219
Arthur F. Werner, Jr.	:	C-2024-3046244
Marianne Vergnetti	:	C-2024-3046108
Edmund Moroney	:	C-2024-3046061
Alice Lord	:	C-2024-3046043
Giselle Rutchford	:	C-2024-3046095
Ann McDermott	:	C-2024-3046046
Patricia Shultz	:	C-2024-3046050
Frank S. Sislo	:	C-2024-3046087
Linda Kiefer	:	C-2024-3046265
Dominic Cuchara	:	C-2024-3046109
Anthony Palmere, Jr.	:	C-2024-3046243
Debbie Wilson	:	C-2024-3046276
Gerard Dombroski	:	C-2024-3046259
Roberta Brentano	:	C-2024-3046098
William Seeger	:	C-2024-3046057
Elizabeth Zangardi	:	C-2024-3046226
Paul DelRossso	:	C-2024-3046217
Joseph Guerra	:	C-2024-3046168
Michael Shafer	:	C-2024-3046215
Marty Flynn	:	C-2024-3046257
Patrick H. Brentano	:	C-2024-3046099
Gary Shiner	:	C-2024-3046166
David F. Sevensky	:	C-2024-3046267
Susan Gilday	:	C-2024-3046238
Bernadette Bussacco	:	C-2024-3046221
Theodore Parchinski	:	C-2024-3046053

John Blackledge	:	C-2024-3046274
John Kulick	:	C-2024-3046353
Richard & Carmella Zaleski	:	C-2024-3046482
Nadine Simms	:	C-2024-3046351
James P. McDermott	:	C-2024-3046301
Lucy Jason	:	C-2024-3046302
Lynn King	:	C-2024-3046249
John McAuliffe	:	C-2024-3046392
Laura Virtue-Delayo	:	C-2024-3046397
Jessica Libassi	:	C-2024-3045805
David A. Grecco	:	C-2024-3046096
Leroy James Watters	:	C-2024-3046404
James Metzer	:	C-2024-3046411
Lorraine Perry	:	C-2024-3046408
Stephen Marr	:	C-2024-3046410
Brian A. McDonald	:	C-2024-3046741
Patricia A. Perri	:	C-2024-3046970
Patricia Barbuti	:	C-2024-3046810
Ryan & Leslie Ferguson	:	C-2024-3046467
Natalie Davis	:	C-2024-3046744
Patricia A. Perri	:	C-2024-3046745
Gary Graziano	:	C-2024-3046736
Joseph & Erin Kreis	:	C-2024-3046470
Caesar Bordo	:	C-2024-3046870
Ann McDonald	:	C-2024-3046746
Janice M. Mcdonald	:	C-2024-3046874
Jennifer Comparetta	:	C-2024-3046471
Sharon Cuff	:	C-2024-3046477
Karen Schuster	:	C-2024-3046742
Valerie Mendicino	:	C-2024-3046737
William J. O'Malley, III	:	C-2024-3046734
Louis Guzzi, Jr.	:	C-2024-3046406
Francis Kranick, Jr.	:	C-2024-3046811
Tara & Tom Schuster	:	C-2024-3046738
Colleen Demuro	:	C-2024-3046867
Charlotte DeRosier	:	C-2024-3046466
Albert Denunzio	:	C-2024-3046871
Mary C. Jennings	:	C-2024-3046743
James F. McCormick	:	C-2024-3046873
Laura A. O'Malley	:	C-2024-3046405
Mary & David Dobrzyn	:	C-2024-3046875
Gene Stanavitch	:	C-2024-3046403
Pat Stanavitch	:	C-2024-3046402
Robert Barry	:	C-2024-3046399
John Borgia	:	C-2024-3047073

Dominic P. Cafarella	:	C-2024-3046878
Michael D. Brooks	:	C-2024-3046880
Daniel E. Skvarla	:	C-2024-3046881
Donna Antonelli	:	C-2024-3046882
Michael Dempsey	:	C-2024-3046884
Marianne Brown	:	C-2024-3046886
Sharon Soudas	:	C-2024-3046885
Gina McCarthy	:	C-2024-3047515
Gerald Fabricatore	:	C-2024-3047312
Gerald R. Fabricatore	:	C-2024-3047375
Laura Wisniewski	:	C-2024-3047521
Julie Janosey	:	C-2024-3047695
Lackawanna County	:	C-2024-3048333
Vincent Ennis	:	C-2024-3048341
Clyde H. Morgan	:	C-2024-3045569
Colleen Adams	:	C-2024-3045573
Mark J. Mazurkiewicz	:	C-2024-3045579
Linda Culbertson	:	C-2024-3045650
Larry Wise	:	C-2024-3045668
James Lyband Jackson	:	C-2024-3045674
Gail Y. Gayeski	:	C-2024-3045666
Veronica A. Hannevig	:	C-2024-3045667
Theresa Skobel	:	C-2024-3045670
Jordan Henning	:	C-2024-3045678
Kyle & Lori Rompella	:	C-2024-3045681
Stefanie Adams	:	C-2024-3045685
Deborah & Robert May	:	C-2024-3045687
David & Lynn Griffith	:	C-2024-3045686
Paul Krammes	:	C-2024-3045690
Thomas Campisano	:	C-2024-3045691
Nelson Moeller	:	C-2024-3045703
Paulette Knott	:	C-2024-3045741
Gene & Patricia Malaspina	:	C-2024-3045750
Stephanie Sienkel	:	C-2024-3045767
Robert Boni	:	C-2024-3045765
Janice M. Reynolds	:	C-2024-3045768
Bilal Salaam	:	C-2024-3045812
Michael Troutman	:	C-2024-3045835
Kendra Robnison	:	C-2024-3045838
Gertrude Terrell	:	C-2024-3045842
	:	
v.	:	
	:	
Pennsylvania-American Water Company	:	

Pennsylvania Public Utility Commission	:	R-2023-3043190
Office of Consumer Advocate	:	C-2023-3044292
Office of Small Business Advocate	:	C-2023-3044377
Mark Henderson	:	C-2023-3044159
Brian Gottschall	:	C-2023-3044170
Leroy Bumbarger	:	C-2023-3044169
Kathleen Schwartz	:	C-2023-3044193
Amanda Johnsen	:	C-2023-3044187
Adam Nemchick	:	C-2023-3044192
Anne Lockwood & Michael Haehnel	:	C-2023-3044168
Keith Sauer	:	C-2023-3044219
Natalie Rarick	:	C-2023-3044239
Darlene Hamilton	:	C-2023-3044170
Tacy M. Rutherford	:	C-2023-3044333
David Ross	:	C-2023-3044349
Alecia M. Lilley	:	C-2023-3044367
Lynn DeAcosta	:	C-2023-3044401
Nicole Glimp	:	C-2023-3044564
William H. Rissmiller	:	C-2023-3044569
Michelle White	:	C-2023-3044371
Jennifer Dianna	:	C-2023-3044395
Thomas J. Hollenbach	:	C-2023-3044685
Mallory Kercher	:	C-2023-3044681
Devon Landis	:	C-2023-3044448
Morgan Wengert	:	C-2023-3044427
Jeff Henry	:	C-2023-3044407
John Miller	:	C-2023-3044413
Angelica Alvarez	:	C-2023-3044566
Andrew Kulp	:	C-2023-3044468
Sharon Winter	:	C-2023-3044615
Paul Brown	:	C-2023-3044616
Charles L. Heydt	:	C-2023-3044618
William R. Thomas	:	C-2023-3044604
Linda Allison	:	C-2023-3044595
Christopher Blake	:	C-2023-3044444
Richard Peal	:	C-2023-3044620
Tracy Cosgrove	:	C-2023-3044667
Donald D. Dickerson	:	C-2023-3044662
Patricia A. Finley	:	C-2023-3044505
Jennifer Cohen	:	C-2023-3044671
Michael D. Fletcher	:	C-2023-3044688
Mary Tanealian	:	C-2023-3044577
Tao Lu	:	C-2023-3044573

Amy E. Dalton	:	C-2023-3044678
Mark Coogan	:	C-2023-3044704
Carla Seidel	:	C-2023-3044732
Anh Duong	:	C-2023-3044353
Borough of St. Lawrence	:	C-2023-3044757
Debora A. Sokol	:	C-2023-3044767
Audrey Gerold	:	C-2023-3044786
Matthew Jordan	:	C-2023-3044814
Laura Semel	:	C-2023-3044821
Lynn Mugno	:	C-2023-3044366
PAWLUG	:	C-2023-3044873
Joel Hernandez	:	C-2023-3044877
Mary Chibatar	:	C-2023-3044879
Dennis McConnell	:	C-2023-3044880
Marie T. Ratchford-Demkosky	:	C-2023-3044881
Cindy Cabrera	:	C-2023-3044916
Thalia Karalis	:	C-2023-3044915
Richard Matijasich	:	C-2023-3044982
Daniel B. Fletcher	:	C-2023-3045056
James Lingwall	:	C-2023-3045065
Donald Jones	:	C-2023-3045059
Marie Dougherty	:	C-2023-3045067
Jay Phillips	:	C-2023-3045069
Carl W. Tunall Jr.	:	C-2023-3045070
Catharine Anderson	:	C-2023-3045074
Kathleen Donell	:	C-2023-3045075
Paul & Eileen Miller	:	C-2023-3045077
Norman T. Carpenter	:	C-2023-3045079
David Duquette	:	C-2023-3045091
Wesley Hartman	:	C-2023-3045092
Shaun Keperling	:	C-2023-3044802
Cindy Murphy	:	C-2023-3045125
Patrick O'Donnell	:	C-2023-3045140
Kathryn Wilson	:	C-2023-3045153
Keith Pinkerton	:	C-2023-3045164
Nancy & Charles Wilson	:	C-2023-3045160
Dayna Gardecki	:	C-2023-3045167
Kelly Knapp	:	C-2023-3045186
Alicia W. Shussett	:	C-2023-3045188
Patrick F. Boyle	:	C-2023-3045191
Juan F. Ramos	:	C-2023-3045206
Kyle Donahue	:	C-2023-3045211
Angela Gilmore	:	C-2023-3045213
John Erbicella	:	C-2024-3045255

Vicki DiArchangelo	:	C-2024-3045279
Alena Trently	:	C-2024-3045259
Andrea Devlin	:	C-2024-3045296
Thomas C. Kidwell	:	C-2024-3045316
Lloyd Simmers	:	C-2024-3045332
Anne-Marie Trace	:	C-2024-3045331
Borough of Port Vue	:	C-2024-3045334
Christopher Nicholson	:	C-2024-3045337
Priscilla Gentry	:	C-2024-3045342
Ruth & Craig Benderoth	:	C-2024-3045346
Matthew & Heather Heliger	:	C-2024-3045344
Barbara Stettenbauer	:	C-2024-3045362
Elizabeth Clark	:	C-2024-3045367
Catherine & Kenneth Green	:	C-2024-3045441
Naomi Conte	:	C-2024-3045464
Clyde Morgan	:	C-2024-3045571
Colleen Adams	:	C-2024-3045572
Mark Pezone	:	C-2024-3045574
Mark Mazurkiewicz	:	C-2024-3045582
Larry Wise	:	C-2024-3045669
James Lyband Jackson	:	C-2024-3045673
Janice Reynolds	:	C-2024-3045684
Veronica Hannevig	:	C-2024-3045694
Theresa Skobel	:	C-2024-3045695
David & Lynn Griffith	:	C-2024-3045696
Thomas Campisano	:	C-2024-3045723
Paulette Knott	:	C-2024-3045734
Gene & Patricia Malaspina	:	C-2024-3045747
Jordan Henning	:	C-2024-3045773
Kyle & Lori Rompella	:	C-2024-3045779
Richard Hamilton	:	C-2024-3045806
Kenneth Stoudt Jr.	:	C-2024-3045811
Bilal Salaam	:	C-2024-3045826
Ashley Sanchez	:	C-2024-3045815
Kendra Robinson	:	C-2024-3045839
David Breitegam	:	C-2024-3045873
Anita Sakevich	:	C-2024-3045902
George Kamage Jr.	:	C-2024-3045967
Michael Knoll	:	C-2024-3045984
Josep K. Koza	:	C-2024-3045989
Ruth McMullan	:	C-2024-3045994
Thomas Tomeo	:	C-2024-3046051
David Grecco	:	C-2024-3046052
Theodore Parchinski	:	C-2024-3046054

Mark Mecca	:	C-2024-3046056
William Seeger	:	C-2024-3046058
Josephine Roman	:	C-2024-3046060
Edmond Maroney	:	C-2024-3046062
Nereida Colon-Gonzalez	:	C-2024-3046072
William Roman	:	C-2024-3046081
Frank Sislo	:	C-2024-3046088
Patrick Brentano	:	C-2024-3046083
Bill Gaughan	:	C-2024-3046089
Giselle Rutchford	:	C-2024-3046091
Roberta Brentano	:	C-2024-3046093
Brian Cadugan	:	C-2024-3046119
John Fletcher	:	C-2024-3046121
Marianne Vergnetti	:	C-2024-3046126
Dominic Cuchara	:	C-2024-3046128
Richard Brill	:	C-2024-3046130
Ronald & Lucy Benke	:	C-2024-3046133
Gary Shiner	:	C-2024-3046134
Suzanne Horishny	:	C-2024-3046145
Chris Casciano	:	C-2024-3046150
James Haggerty	:	C-2024-3046152
Joseph Baronski	:	C-2024-3046154
Joseph Guerra	:	C-2024-3046156
John Borer	:	C-2024-3046159
Michael Shafer	:	C-2024-3046160
Joel Hoffman	:	C-2024-3046185
Paul DelRosso	:	C-2024-3046193
Ferentz Irrevocable Grantor Trust c/o Joseph Surenko	:	C-2024-3046197
Robert Meyers	:	C-2024-3046198
Bernadette Bussacco	:	C-2024-3046222
Susan Gilday	:	C-2024-3046223
Arthur Werner Jr	:	C-2024-3046242
Timothy Brier	:	C-2024-3046239
Francis Kearney	:	C-2024-3046251
Sean McAndrew	:	C-2024-3046255
Elaine Campbell	:	C-2024-3046256
Marty Flynn	:	C-2024-3046258
Gerard Dombroski	:	C-2024-3046260
Harold Kiefer	:	C-2024-3046264
Linda Kiefer	:	C-2024-3046266
David Sevensky	:	C-2024-3046268
John Blackledge	:	C-2024-3046273
John Mayer	:	C-2024-3046280
Lucy Jason	:	C-2024-3046247

Lynn King	:	C-2024-3046248
Ernest & Kathy Mayer	:	C-2024-3046293
James & Marie Wynder	:	C-2024-3046295
Kathleen Nole	:	C-2024-3046297
James McDermott	:	C-2024-3046300
Nadine Simms	:	C-2024-3046350
David Grecco	:	C-2024-3046352
John Kulick	:	C-2024-3046354
Richard & Carmella Zaleski	:	C-2024-3046355
John McAuliffe	:	C-2024-3046393
Laura Virtul-Delayo	:	C-2024-3046398
Robert Barry	:	C-2024-3046400
Mark Perry	:	C-2024-3046407
Rebecca Pesyna	:	C-2024-3046409
Louis Guzzi Jr	:	C-2024-3046472
Maureen Guzzi	:	C-2024-3046473
David Dobrzyn	:	C-2024-3046474
Albert Denunzio	:	C-2024-3046475
Caesar Bordo	:	C-2024-3046476
Gary & Beth Graziano	:	C-2024-3046739
Valerie Mendicino	:	C-2024-3046740
Tara & Tom Schuster	:	C-2024-3046752
Karen Schuster	:	C-2024-3046807
Mary Jennings	:	C-2024-3046808
Patricia Barbuti	:	C-2024-3046809
Francis Kranick Jr	:	C-2024-3046812
Natalie Davis	:	C-2024-3046863
Sharon Cuff	:	C-2024-3046869
Colleen Demuro	:	C-2024-3046868
Domenic Cafarella	:	C-2024-3046879
Michael Dempsey	:	C-2024-3046883
Marianne Brown	:	C-2024-3046887
Gerald Fabricatore	:	C-2024-3047362
Gerald Fabricatore	:	C-2024-3047371
Gina McCarthy	:	C-2024-3047533
Julie Janosy	:	C-2024-3047696
	:	
v.	:	
	:	
Pennsylvania-American Water Company –	:	
Wastewater Division	:	

RECOMMENDED DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

John M. Coogan
Administrative Law Judge

NON-PROPRIETARY VERSION

TABLE OF CONTENTS

I. INTRODUCTION

This Recommended Decision recommends that Pennsylvania-American Water Company's proposed Supplement No. 45 to Tariff Water-PA. P.U.C. No. 5, which would increase PAWC's total annual operating revenues for water service by approximately $199.2 million, or 24.2%, and proposed Supplement No. 47 to Tariff Wastewater PA P.U.C. No. 16, which would increase PAWC-WD's total annual operating revenues for wastewater service by approximately $4.7 million, or 2.5%, both be denied because the Company has not met its burden of proving by a preponderance of the evidence the justness and reasonableness of every element of its requested increases.

Instead, this Recommended Decision recommends a maximum water revenue increase of approximately $92.6 million. This water revenue increase, when combined with adjusted pro forma present rate water revenues, results in an allowable annual revenue of approximately $913.5 million for PAWC's water service. This decision also recommends a maximum wastewater revenue increase of approximately $11.5 million that, when combined with adjusted pro forma present rate wastewater revenues results in an allowable annual revenue of $184.8 million. This represents an approximate 11.3% increase in water operating revenue and 6.6% increase in wastewater operating revenue.[1]

The suspension period for this proceeding ends on August 7, 2024. Therefore, the Commission must act on these filings no later than its Public Meeting on July 11, 2024.

II. HISTORY OF THE PROCEEDING

On November 8, 2023, Pennsylvania-American Water Company (PAWC or Company) filed Supplement No. 45 to Tariff Water-PA. P.U.C. No. 5 (Supplement No. 45) with the Pennsylvania Public Utility Commission to become effective January 7, 2024. Supplement

[1] Tables setting forth the Rate of Return and summary of Adjustments and Comparison of Present and Proposed Water Rates are attached hereto and made a part of this Recommended Decision.

No. 45 would increase PAWC's total annual operating revenues for water service by approximately $199.2 million, or 24.2%.

Also on November 8, 2023, the Pennsylvania-American Water Company – Wastewater Division (PAWC-WD or Company) filed Supplement No. 47 to Tariff Wastewater PA P.U.C. No. 16 (Supplement No. 47) with the Commission to become effective January 7, 2024. Supplement No. 47 would increase PAWC-WD's total annual operating revenues for wastewater service by approximately $4.7 million, or 2.5%.

Formal Complaints have been filed against PAWC and PAWC-WD's tariff filings by the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), as well as various PAWC and PAWC-WD customers. Additionally, Petitions to Intervene have been received by the Commission on Economic Opportunity (CEO), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Cleveland-Cliffs Steel (Cleveland-Cliffs), the City of Scranton, Victory Brewing Company (Victory Brewing), and Exeter Township.

On December 21, 2023, by separate Orders, the Commission suspended the filings by operation of law until August 7, 2024, pursuant to Section 1308(d) of the Public Utility Code, unless permitted by the Commission to become effective at an earlier date. In both Orders, the Commission stated that investigation and analysis of the proposed tariff supplements and the supporting data indicate that the proposed changes in rates, rules and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest. The Commission also determined that consideration should be given to the reasonableness of PAWC's and PAWC-WD's existing rates, rules, and regulations. As a result, the Commission ordered that an investigation be instituted in response to both filings to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed tariff filings, as well as a consideration of the lawfulness, justness and reasonableness of the exiting rates, rules, and regulations. The Commission assigned the cases to the Office of Administrative Law Judge for Alternative Dispute Resolution, if possible, and for the prompt scheduling of hearings as may be necessary culminating in the issuance of Recommended Decisions.

On December 21, 2023, a hearing notice was issued for both filings establishing a telephonic prehearing conference for these matters for Wednesday, January 3, 2024, at 10:00 a.m. and assigning us as the Presiding Officers. A Prehearing Conference Order was issued on December 22, 2023, setting forth rules that would govern the prehearing conference.

On December 28, 2023, prehearing memoranda were filed by the following parties: PAWC and PAWC-WD (Collectively, PAWC), the Commission's Bureau of Investigation and Enforcement (I&E), OCA, OSBA, CAUSE-PA, CEO, Pennsylvania American Water Large Users Group (PAWLUG), Cleveland-Cliffs Steel, and the Borough of St. Lawrence.

Separately on December 28, 2023, PAWC filed its Petition of Pennsylvania-American Water Company for Protective Order at docket numbers R-2023-3043189 and R-2023-3043190. Additionally, PAWC filed its Petition of Pennsylvania-American Water Company for Consolidation or Rate Proceedings at the aforementioned dockets.

The prehearing conference convened on January 3, 2024, as scheduled. The following parties were present and represented by the following counsel: Brooke McGlinn, Esquire, for PAWC; Erin Gannon, Esquire, for OCA; Carrie Wright, Esquire, for I&E; Steve Gray, Esquire, for OSBA; Ria Pereira, Esquire, for CAUSE-PA; Kurt Boehm, Esquire for Cleveland-Cliffs Steel; Joseph Vullo, Esquire, for CEO; Adeolu Bakare, Esquire, for PAWLUG; Joan London, Esquire, for the Borough of St. Lawrence; Kailie Melchior, Esquire, for West Norriton Township; and J. Chadwick Schnee, Esquire, for Exeter Township. Eighteen consumer Complainants were also present, two of whom requested active status in this proceeding, Robert Ralls, and Kyle Donahue. During the Prehearing Conference, we granted PAWC's Motion to Consolidate these proceedings.

On January 5, 2024, we issued Prehearing Order #1 for the proceedings at Docket Numbers R-2023-3043189 and R-2023-3043190.

On January 5, 2024, we issued an order granting PAWC's Petition for Protective Order.

On January 12, 2024, the Commission issued a public input hearing notice for a series of twelve public input hearings to be held as follows:

- January 29, 2024 – two in-person public input hearings in Port Vue, PA;
- January 30, 2024 – two in-person public input hearings in Scranton, PA;
- January 31, 2024 – two in-person public input hearings in Exeter Township, PA;
- February 5, 2024 – two telephonic public input hearings;
- February 6, 2024 – two in-person public input hearings in Harrisburg, PA; and
- February 7, 2024 – two telephonic public input hearings.

On January 25, 2024, we issued Prehearing Order #2, which granted in part and denied in part OCA's Motion to Compel filed on January 12, 2024.

On January 25, 2024, the Commission issued a call-in telephonic hearing notice for evidentiary hearings on March 7 and 8, 2024.

On January 29, 2024, we issued Prehearing Order #3, which granted OCA's Motion to Compel filed on January 19, 2024.

The public input hearings were held as scheduled.[2] A total of 217 people testified during the public input hearings.

The evidentiary hearings were held as scheduled on March 7 and 8, 2024. During the hearings, the following occurred: PAWC, I&E, OCA, OSBA, CAUSE-PA, CEO, Cleveland-Cliffs Steel, Exeter Township, the Borough of St. Lawrence, PAWLUG, Kyle Donahue, and the City of Scranton moved for the admission of their pre-served testimony and exhibits into the record; PAWC presented rejoinder testimony; witnesses for PAWC, I&E, and the OCA were

[2] Vice Chair Kimberly M. Barrow attended the Scranton public input hearings and the 6 p.m. Harrisburg public input hearing. Commissioner Kathryn L. Zerfuss attended the Scranton public input hearings and the Harrisburg public input hearings. Neither Commissioner participated in the preparation of this Recommended Decision.

cross-examined; and various housekeeping matters were discussed. The list of pre-served testimony and exhibits admitted into the record at the evidentiary hearings are attached as Appendix A to this Recommended Decision.

On March 11, 2024, we issued a Briefing Order.

On March 26, 2024, we received Main Briefs from PAWC, OCA, I&E, OSBA, CAUSE-PA, Cleveland-Cliffs Steel, and PAWLUG.[3]

On April 5, 2024, we received Reply Briefs from PAWC, OCA, I&E, OSBA, CAUSE-PA, and Cleveland-Cliffs Steel.

III. FINDINGS OF FACT

1. Pennsylvania-American Water Company ("PAWC" or the "Company") is a Pennsylvania public utility that furnishes water and wastewater services to approximately 780,000 customers in a service territory covering portions of 36 counties across the Commonwealth. *See* PAWC St. 2, pp. 2-3.

2. On November 8, 2023, the Company initiated this rate case pursuant to 66 Pa.C.S. § 1308(d) by filing Supplement No. 45 to Tariff Water – Pa. P.U.C. No. 5 and Supplement No. 47 to Tariff Wastewater – Pa. P.U.C. No. 16 requesting a $203.9 million increase in its total annual operating revenues to become effective January 7, 2024. PAWC St. 1, p. 7.

[3] CEO, Exeter Township, the Borough of St. Lawrence, and the City of Scranton submitted letters in lieu of Main Briefs. CEO stated that it would join in the position taken by the OCA in these proceedings. Exeter Township stated it adopts the positions taken by OCA, CAUSE-PA, OSBA, and I&E. The Borough of St. Lawrence stated it adopts the position taken by the OCA in these proceedings. The City of Scranton stated that it is opposed to rate increases for both water and wastewater consumers and is also opposed to a shift of costs to wastewater.

<u>Rate Base</u>

A. Utility Plant In Service

3. PAWC's revenue requirement includes utility plant in service claims in the FPFTY for six not yet completed acquisitions. PAWC Ex. 3-A; OCA St. 2, p. 18-19; OCA St. 2SR at 24.

4. The six proposed acquisitions include: (1) Audubon Water Company's water system, (2) Farmington Township's water system, (3) Farmington Township's wastewater system, (4) Sadsbury Township Municipal Authority's wastewater system, (5) Butler Area Sewer Authority's (BASA's) wastewater, and (6) the Borough of Brentwood's wastewater system. OCA St. 2, p. 18.

5. Five of the six proposed acquisitions – Audubon water, Farmington water and wastewater, Sadsbury wastewater, and BASA – are in various stages of litigation (OCA St. 2, pp. 24, 27- 28, 30, 31-32), and the sixth acquisition – Brentwood – was denied by Commission order. (OCA St. 2SR, p. 8).

6. PAWC proposed a multistep revenue requirement consisting of a Step 1 that excludes BASA and Brentwood acquisitions, a Step 2 that excludes Brentwood but includes BASA, and a Step 3 that includes BASA and Brentwood. PAWC St. 1R, pp. 4-6.

7. As a result of the Commission's denying PAWC's application to acquire the Brentwood wastewater system, PAWC removed the revenue requirement for the Brentwood wastewater acquisition and Step 3 from its ratemaking claims in this case. Tr. 1969-70.

B. Depreciation Reserve

8. PAWC witness Spanos completed depreciation studies to estimate the annual depreciation accruals related to water and wastewater plant in service for ratemaking

purposes and, using PUC-approved procedures, to estimate the Company's book reserve as of June 30, 2023, June 30, 2024, and June 30, 2025. *See generally* PAWC St. 11; PAWC Exs. 11-A though 11-M; *see also* PAWC Ex. JJS-1R. PAWC's annual depreciation accrual applicable to plant-in-service at June 30, 2025, is $265,476,224.

9. Service life studies were the basis for the service lives and survivor curves Mr. Spanos used to calculate annual accruals. PAWC's most recent service life studies were performed in 2022 for the Company's water assets (based on plant data through 2021) and in 2020 for its wastewater assets (based on plant data through 2019). PAWC St. 11, p. 7.

C. Cash Working Capital

10. Cash working capital represents the funds needed to pay O&M expenses and taxes that, on average, are incurred in advance of the utility's receipt of revenues. PAWC calculated its cash working capital requirement using the accepted, PUC-approved lead-lag method. PAWC St. 4, pp. 13-15.

Expenses

A. Payroll Costs – Vacancy Rate

11. The OCA proposed a 1.76% vacancy rate adjustment to salaries, wages, and related benefits for the water operations. OCA St. 2, pp. 56-59; OCA St. 2SR, p. 2, n. 1, 2.

12. PAWC accepted the adjustments recommended based on the OCA's 1.76% vacancy rate. PAWC St. 5R, pp. 2-3.

B. Annualized Performance Pay

13. PAWC's performance pay calculation, inclusive of financial performance metrics, benefits customers by encouraging, among other things, operational efficiency and accessing capital at reasonable rates. PAWC St. 2-R, pp. 6-7.

C. Group Insurance Expense

14. The OCA's vacancy rate adjustment reduces projected 2025 group insurance expense by $200,623 for water operations. OCA St. 2, p. 60; OCA St. 2SR, p. 2.

D. 401K, Define Contribution Plan and Employee Stock Purchase Plan

15. PAWC employees who become American Water shareholders have additional incentive to establish efficiencies that benefit customers. PAWC St. 5-R, p. 5; *see also* PAWC St. 2-R, p. 6.

E. Stock-Based Compensation Expense – American Water Executives

16. PAWC's Long-Term Performance Plan includes both restricted stock units (RSUs) and performance stock units (PSUs). PAWC St. 2, p. 41.

17. PSUs reflect the Company's financial performance. PAWC St. 2, p. 41, fn. 2.

18. Improved financial performance can benefit customers by encouraging operational efficiency. PAWC St. 2-R, pp. 6-7.

19. RSUs are not linked to financial goals or targets but vest in equal increments in the three years following the year in which the RSUs were granted. *See* PAWC St. 2-R, p. 7.

20. Encouraging employee retention can benefit ratepayers by maintaining stable leadership experienced with the Company's operations as well as avoiding turnover costs. PAWC St. 2-R, p. 8.

F. Executive Perquisites (AWW Executives Dividend Equivalents)

21. The executive perquisites associated with dividend equivalents are paid in cash with respect to PSUs and RSUs if the PSUs or RSUs are converted to common stock. OCA St. 2, p. 70.

G. Insurance Other Than Group

22. OCA witness Smith proposes using a single data point – the HTY to FTY increase – in lieu of the five-year average PAWC employed to derive its FPFTY insurance other than group expense claim. OCA St. 2, pp. 63-64.

23. In its last base rate case, PAWC used a five-year average to smooth year-to-year variations, and that approach was not opposed by the OCA. The Company's approach continues to smooth out year-over-year variations. PAWC St. 5-R, p. 8.

H. Uncollectible Expense (Rate of Net Write-Offs)

24. Outstanding arrearages for PAWC's customers have stabilized from the significant increases during the peak of the COVID-19 pandemic, and the Company's net write-offs have been trending back toward pre-pandemic levels since mid-2021. As a result, PAWC calculated its claim for bad debt (uncollectible) expense using a two-year historic average (July 1, 2021, to June 30, 2023) ratio of net write-offs as a percentage of sales revenues (1.176%) to normalize the rate of uncollectible accounts to pre-pandemic levels and account for the application of Low-Income Household Water Assistance Program ("LIHWAP") funds to reduce unpaid balances. PAWC St. 8, pp. 3-6.

I. Arrearage Management Plan ("AMP") Credits – Uncollectible Expense

25. PAWC's Miscellaneous Expense Adjustment included costs related to the Arrearage Management Plan ("AMP") that was pending before the Commission at the time of

the initial base rate filing and later approved on December 7, 2023, at Docket No. P-2021-3028195. The total cost of arrearage forgiveness is based on the average number of Bill Discount Program ("BDP") customers in the HTY with arrears multiplied by the annual AMP credits, assuming a 100% participation rate. PAWC Statements 5, p. 26 (inclusion in Miscellaneous Expense Adjustment) & 5-R, p. 8 (identifying PUC approval order).

J. Interest Synchronization

26. PAWC's claim for income tax expense is set forth in PAWC Exhibit 3A-Revised and is based, in part, on an interest expense deduction calculated using the Company's proposed rate base and weighted cost of debt. PAWC Ex. 3-A Revised, pp. 72R-75R.

K. Amortization Expense

27. I&E and the OCA propose adjustments to PAWC's amortization expense related to PAWC's acquisitions of the AWC, BASA, Farmington and Sadsbury systems. *See* I&E St. 3, pp. 81-83; OCA St. 2, pp. 49-52.

L. Call Center Expense

28. The OCA presented evidence expressing concerns with both PAWC's own call centers as operated by the Service Company as well as call centers operated by third parties. PAWC St. 6, pp. 19-26.

29. Third-party call center agents are trained with the same materials as internal call center employees. PAWC St. 9-R, p. 6.

M. Pension and Other Post Employment Benefits ("OPEB") Expense (and Request for Deferred Regulatory Accounting Treatment)

30. Pension and OPEB costs are not extraordinary, unanticipated, or non-recurring. I&E St. 1, p. 21.

31. PAWC's historic pension and OPEB costs are variable. I&E St. 1, pp. 21-25; I&E St. 1-SR, pp. 20-26.

N. Production Expense (and Request for Deferred Regulatory Accounting Treatment)

32. Production costs are not extraordinary, unanticipated, or non-recurring. I&E St. 1, pp. 32-33.

<u>Taxes</u>

33. PAWC's claims for Federal and State income taxes are set forth in described by Company witness Melissa Ciullo in PAWC Statement No. 7 and set forth in PAWC Exhibit 3-A Revised.

<u>Rate of Return</u>

A. Proxy Group

34. Less than 50% of Essential Utilities' operating revenues comes from regulated water service. PAWC St. 13-R, p. 22.

35. Electric and gas utilities are dissimilar from water and wastewater utilities because electric and gas customer can shop for a supplier. I&E St. 2, p. 14.

36. Each different utility industry faces different operational, safety, and weather-related risk. I&E St. 2, p. 14.

B. Capital Structure

37. PAWC's actual capital structure for water operations includes 44.01% Long-Term Debt and 55.99% Common Equity. I&E St. 2, p. 6

38. PAWC's actual capital structure for wastewater operations includes 42.73% Long-Term Debt, 4.40% Wastewater Specific Debt, and 52.87% Common Equity. I&E St. 2, p. 6.

C. Cost of Long-Term Debt

39. PAWC's cost of long-term debt is 4.76%. I&E St. 2-SR, pp. 5-6.

D. Return on Equity

40. I&E's DCF cost of equity analysis result is 8.45%. I&E St. 2, pp. 29-31.

41. I&E's CAPM cost of equity analysis result is 10.44%. I&E St. 2, pp. 31-34.

42. Current market conditions include high inflation and high interest rates. PAWC St. 13, pp. 30.

43. An ECAPM cost of equity analysis introduces subjectivity to the CAPM analysis by reducing reliance on the company-specific beta variable. I&E St. 2, pp. 50-51.

44. In the last ten years the Company has completed sixteen acquisitions of very small, less-viable water and wastewater systems with less than 1,000 customers each. PAWC St. 1, p. 42-43.

45. PAWC customers provided hundreds of comments criticizing PAWC for the affordability of its rates, quality of service, and other concerns. Tr. 110-1893.

<u>Rate Structure and Rate Design</u>

A. Cost of Service Studies – Water Operations

46. PAWC submitted five separate cost of service studies ("COSSs"), one for its water operations and four for its wastewater operations. PAWC St. 12, pp. 3-5; PAWC Exs. 12-A Revised to 12-E Revised.

47. PAWC's COSS for PAWC's water operations ("Water COSS") used the base-extra capacity method for allocating costs to customer classifications. PAWC St. 12, pp. 6-16; PAWC Ex. 12-A Revised (Water Operations).

48. PAWC's proposed system-wide maximum day demand factor (1.4) reflects the maximum daily send-out of the Company since its formation in 1987. PAWC must be prepared to meet customers' peak demands whenever they occur, and the water usage on the maximum day of 2022 in several areas within the Company's overall water operations was more than 1.4 times the average usage for that year. PAWC St. 12-R, pp. 5-6; PAWC Exs. CEH-2R & CEH-1SR.

49. The 2.1 maximum hour factor Ms. Heppenstall employed in the Water COSS is based on a detailed analysis of PAWC's actual maximum hour send out in 1988. PAWC St. 12, p. 10.

50. The demand study statistics used in PAWC's Water COSS, which include the maximum day and maximum hour demand factors for each customer class, account for changes in consumption patterns. PAWC St. 12-R, p. 9.

B. Cost of Service Studies – Wastewater Operations

51. For sanitary sewer system ("SSS") operations, PAWC's COSSs were prepared using the functional cost allocation methodology described in "Financing and Charges

for Wastewater Systems," Manual of Practice No. 27, published by the Water Environment Federation. That allocation methodology was modified to determine the incremental cost related to handling stormwater for PAWC's combined sewer system ("CSS") operations. PAWC St. 12, pp. 16-31; PAWC Exs. 12-B Revised (Wastewater SSS General Operations), 12-C Revised (BASA) & 12-E Revised (Wastewater CSS Operations).

52. No parties raised any objections to the allocation methodology employed in PAWC's wastewater COSSs.

C. Cost of Service Studies – Cost of Service for Future General Rate Increases

53. PAWC has agreed to continue providing separate CCOS studies for water operations, SSS Operations, and CSS Operations. PAWC St. 1R, p. 31.

54. PAWC did not separately determine the costs associated with serving Rider DIS and DRS customers in its water COSS study, these revenues from Rider DIS and DRRS customers were reflected as credit to overall cost of service. OCA St. 4, p. 19.

55. Having a revenue requirement associated with each Section 1329 acquisition separately calculated provides information to establish rates that reflects the costs of the system, shows the magnitude of the subsidy proposed for those systems, and facilitates the review and recommended removal of those systems from revenue requirement by parties challenging their inclusion in the FPFTY. OCA St. 4SR, p. 36; PAWC St. 10, p. 47.

56. PAWC submitted its most recent customer class demand study in the Company's 2017 base rate case. PAWC St. 12, p. 13.

57. The first step to completing a new demand study is to do a study of the feasibility of conducting such a demand study. PAWC St. 12-R, p. 13.

58. A feasibility study would determine the overall scope of the demand study, the methods for selecting the customers to be monitored, the location of the selected areas, the equipment to be used, and the overall cost of the study. *Id*.

59. A feasibility study would take approximately 90-120 days to complete. *Id*.

60. After completion, the feasibility study could be presented to the parties for their input and approval of the overall scope and cost before any full-scaled demand study would be undertaken. *Id*.

D. Cost of Service Studies – Allocation of Arrearage Management Program (AMP) Costs and Administrative Costs for H20 Programs

61. The direct revenue shortfall from residential low-income discounts is recovered from the residential class in the Company's rate design. OSBA St. 1, p. 31.

62. Contrary to the Company's rate design, PAWC allocates $3,180,090 in AMP costs and administrative costs associated with its H20m Grant and Discount and Dollar Energy programs among both residential and non-residential customer classes in its cost of service studies. OSBA St. 1, p. 31; PAWC Initial Filing Volume 04, PAWC Ex. 3-B, page 336; PAWC responses to OSBA 01-005 and OSBA 03-002, included in Schedule KCH-10.

63. Specifically, PAWC allocates $2,031,317 for its proposed AMP and $416,569 in Dollar Energy administrative costs among its Water classes based on the historical incurrence of net charge offs (bad debt). OSBA St. 1, p. 31; PAWC Initial Filing Volume 04, PAWC Ex. 3-B, page 336; PAWC responses to OSBA 01-005 and OSBA 03-002, included in Schedule KCH-10, Exhibit 12-A under Proposed Rates.

64. For Wastewater, PAWC allocates a total of $345,883 in AMP expense and $70,931 in Dollar Energy administrative costs among classes within its four wastewater cost of service studies based on customer count. OSBA St. 1, p. 31; PAWC Exs. 12-B, 12-C, 12-D, and 12-E under Proposed Rates.

65. PAWC also allocates $315,390 in administrative costs for its H20 Grant and Discount program among water customer classes using an operations & maintenance ("O&M") composite factor. OSBA St. 1, p. 31; PAWC Ex. 12-A under Proposed Rates.

66. PAWC initially claimed that costs associated with its AMP are recovered in base rates from residential customers. OSBA St. 1, p. 31; PAWC response to OCA 11-028, included in Schedule KCH-10.

67. PAWC subsequently acknowledged that these costs are not directly assigned to the residential class in its cost of service study. OSBA St. 1, p. 32; PAWC response to OSBA 03-002, included in Schedule KCH-10.

E. Revenue Allocation and Act 11

68. PAWC is proposing to reallocate a portion of the wastewater revenue requirement calculated in this case to its water service customers under the provisions of Act 11 of 2012. PAWC St. 10, p. 40.

69. OCA Table 4-SR summarizes the results of the OCA's CCOS study at present and proposed rate revenues based on PAWC's claimed cost of service, adjusted to reflect OCA's proposed Act 11 shift. OCA St. 4, p. 32; OCA St. 4SR, pp. 15-16.

70. Typically, an increase of 1.5 to 2.0 times the system average increase is consistent with the concept of gradualism. OCA St. 4, p. 33.

71. PAWC has proposed to allocate in the FPFTY approximately $71 million of its wastewater cost of service to its water operations. PAWC St. 1, p. 19.

72. At proposed rates, inclusive of act 11 shift, PAWC is proposing to increase water revenues by 24.3% while decreasing revenues for the SSS wastewater customers and CSS customers by .1% and .2% respectively. PAWC Ex. 3-A Revised.

73. Without the $71 million assignment of wastewater revenue requirement to water customers, the increase to water customers would be 15.5%. OCA St. 4, p. 27.

74. Most of PAWC Water customers do not obtain wastewater service from PAWC, as PAWC serves seven times as many water customers as wastewater customers. OCA St. 4R, pp. 10-11 n. 3.

75. There are several PAWC Wastewater systems whose customers do not purchase water from PAWC. OCA St. 4R, p. 10.

F. Tariff Structure – Residential Customer Charge

76. The current water customer charge for residential customers in Rate Zones 1-5 with 5/8-inch, ¾-inch, 1-inch, and 1&1/2-inch meters is $17.50 per month. PAWC Ex. 10-A.

77. PAWC is proposing to increase the water residential customer charge for Rate Zones 1-5 with 5/8-inch, ¾-inch, 1-inch, and 1&1/2-inch meters from $17.50 to $20.00 in the FPFTY. PAWC Ex. 10-A.

78. PAWC provided an updated direct customer cost analysis in its rebuttal testimony that demonstrated a cost of $20.26 per 5/8-inch residential customer. I&E Statement 4SR at 26; PAWC Statement 12-R at 13; PAWC Ex.12-A Revised.

79. PAWC's proposed increase for residential customers with meter sizes 2-inches and over are all consistently increased by approximately 8%. I&E St. 4, pp. 34-35.

80. The current wastewater residential customer charge for SSS Rate Zones 1 (Statewide), 2 (New Cumberland), and 5 (Valley) is $14.30 per month. PAWC St. 10, pp. 37-38.

81. The current wastewater residential customer charge for SSS Rate Zone 7 (York) is $18.00 per month. PAWC St. 10, p. 38.

82. Rates in SSS Rate Zone 8 (Foster) currently consist of a flat rate of $85.00 per equivalent dwelling unit ("EDU") per month, which will increase to a flat rate of $106.00 per month on December 31, 2024. PAWC St. 10, p. 38.

83. The current wastewater residential customer charge for SSS Rate Zone 9 (Royersford) is $48.00 per month. PAWC St. 10, p. 38.

84. The current wastewater residential customer charge for CSS Rate Zone 3 (Scranton) is $19.50 per month. PAWC St. 10, p. 39.

85. Service in CSS Rate Zone 4 is currently offered through a monthly service charge to all customers at $40.00 per month for customers with a 5/8-inch water meter and $100.00 per month for customers with water meters larger than 5/8-inch diameter. PAWC St. 10, p. 39.

86. The current wastewater residential customer charge for CSS Rate Zone 6 (McKeesport) is $14.30 per month. PAWC St. 10, p. 39.

87. PAWC is proposing to set all residential wastewater service charges at $20 per month. PAWC St. 10, p. 41.

G. Tariff Structure – Water Rate Design

88. PAWC offers water service in five rate zones. The five rate zones are: Rate Zone 1 – General Statewide Rate, Rate Zone 2 – Valley, Rate Zone 3 – SLIBCO, Rate Zone 4 – Turbotville, and Rate Zone 5 – Steelton. PAWC St. 10, p. 31.

89. In an attempt to achieve single tariff pricing, PAWC proposes to consolidate Rate Zones 2-5 to Rate Zone 1 rates. PAWC Ex. CBR-3.

H. Tariff Structure – Wastewater Rate Design

90. PAWC provides wastewater service to the following Sanitary Sewer Systems (“SSS”): Rate Zone 1 – PAWC Statewide, Rate Zone 2 – New Cumberland, Rate Zone 5 – Valley, Rate Zone 7 – York, Rate Zone 8 – Foster Township, Rate Zone 9 – Royersford. PAWC St. 10, pp. 37-40. PAWC provides wastewater service to the following Combined Sewer Systems (“CSS”): Rate Zone 3 – Scranton, Rate Zone 4 – Kane, Rate Zone 6 – McKeesport. PAWC St. 10, pp. 37-40.

91. PAWC is proposing consolidation of rate zones for wastewater service in this proceeding. PAWC St. 10, p. 41.

92. In addition to setting residential wastewater service charges at $20 per month, PAWC proposes to set non-residential wastewater service charges at $50 per month. PAWC St. 10, p. 41.

93. PAWC did not propose any changes for Scranton rates except for the roll-in of the DSIC mechanism, which results in the same percentage increase to all rate components in Scranton. PAWC St. 10, p. 41.

I. Tariff Structure – Winter Averaging Proposal

94. PAWC proposes to change the way that it determines the volumetric component of bills for residential customers from the current method, where volumetric charges are based on total metered water usage for the month, to a methodology referred to as winter averaging. PAWC St. 10, p. 42.

95. Winter averaging is a method for determining volumetric components of wastewater bills that attempts to separate metered water usage that is likely to go through the wastewater system from water usage that is used for outdoor purposes in the summertime. PAWC St. 10, p. 43.

96. Under winter averaging, a customer's bill in the wintertime is determined by actual metered water usage for the month, and in the summertime the customer's bill is determined by the lesser of the actual metered water usage for the month or the average water consumption for that customer in the winter months. PAWC St. 10, p. 43.

97. PAWC is defining winter months for the winter averaging period to be January, February, and March. PAWC St. 10, p. 44; OCA St. 4, p. 41.

98. If a customer is new or if there is no winter average billing data upon which to base a calculation, PAWC will assume a standard usage level of 3,000 gallons per month for a comparison point for billed summer usage. PAWC St. 10, p. 44; OCA St. 4, p. 42.

99. The winter average methodology results in volumetric rates that are higher than they otherwise would have been for the same revenue requirement. PAWC St. 10, p. 45; OCA St. 4, p. 42.

100. There is not substantial variability in residential water bills between the three winter months, as defined by PAWC, and the remaining 9 months. OCA St. 5, p. 97.

101. The number of residential accounts that have no volumetric charge on their bills substantially increases during the winter months. OCA St. 5, p. 99.

102. In March 2022, there were 27,690 accounts with no volumetric charges. OCA St. 5, p. 100.

J. Scale Back of Rates

103. If the Commission approves a revenue requirement that is less than that proposed by the Company, the Company proposes to proportionally reduce the water and

wastewater revenue requirements, and the proposed amount of reallocation from wastewater to water under Act 11. PAWC St. 10, pp. 16-17; PAWC St. 10-R, p. 37.

Alternative Ratemaking

A. Revenue Decoupling Mechanism

104. The Revenue Decoupling Mechanism ("RDM") is an alternative rate design mechanism whose purpose is to recover the revenue requirement and associated fixed costs approved by the Commission. PAWC St. 10, p. 86.

105. Decoupling mechanisms such as the RDM are explicitly authorized by Section 1330(b)(2) of the Public Utility Code. 66 Pa.C.S. § 1330(b).

106. The Company's proposed RDM couples traditional rate design with elements of Straight Fixed Variable ("SFV") Pricing. PAWC St. 10, p. 89.

107. SFV pricing is a rate design that collects a utility's fixed costs through fixed charges and a utility's variable costs through volumetric charges. PAWC St. 10, p. 90.

108. The proposed RDM compares the revenues collected under the actual Commission-approved rates customers pay with the revenues that would have been collected through an SFV rate design on a forward-looking basis and accrues the differences, which are either credited to customers or collected from customers at a later time. PAWC St. 10, p. 90.

109. If sales decrease, the RDM formula will adjust rates to charge customers to make-up for the reduced recovery due to decreased sales. OCA St. 1, p. 47.

110. With a RDM in place, customers would have to reduce their consumption by more than the reduction of usage by all other customers in order to reap the full benefit of reduction. OCA St. 4, p. 58.

111. If a customer's usage reduction turns out to be less than the reduction in usage by all other customers, the RDM will take those savings away and the customer's bill will be higher. OCA St. 4, p. 58.

B. Environmental Compliance Investment Charge

112. The Environmental Compliance Investment Charge ("ECIC") is a rate adjustment clause designed to reflect and recover, between rate cases, the capital costs and expenses imposed on the Company to address and comply with new or changed federal and state environmental mandates. PAWC St. 1, p. 26; PAWC St. 8, p. 21.

113. PAWC proposed the ECIC to establish a rate mechanism to enable planning and execution of a five-year investment plan and support full rate recognition of PAWC's costs to meet evolving requirements from the United State Environmental Protection Agency ("EPA"), the Pennsylvania Department of Environmental Protection ("PADEP"), and other environmental agencies. PAWC St. 3, p. 5.

114. PAWC proposed the ECIC in response to regulatory mandates involving the combination of federal and state regulations concerning per- and polyfluoroalkyl substances ("PFAS"), where the EPA issued proposed drinking water regulations for six PFAS that will establish maximum contaminant levels ("MCLs"), Maximum Contaminant Level Goals ("MCLGs"), and monitoring, public notice and treatment requirements, which the EPA is expected to finalize before the end of 2024, after which public water systems would be required to modify their facilities to comply within three years. PAWC St. 3, p. 9.

115. PAWC also proposed the ECIC in response to PADEP promulgated state drinking water standards establishing strict MCLs and MCLGs for two PFAS with compliance monitoring mandates effective January 1, 2024. PAWC St. 3, p. 9.

116. The Commission has the authority to approve the ECIC pursuant to Section 1330(b)(2) of the Public Utility Code. 66 Pa.C.S. § 1330(b).

117. The proposed environmental compliance plan would be filed outside the parameters of a base rate case. PAWC St. 8 at 25-26; I&E St. 1, p. 35.

118. Under PAWC's proposal quarterly updates would take effect on only 10 days' notice. Parties would be required to conduct review and discovery in an expedited time frame during which parties would also be required to respond to two different sets of revisions that the Company would have the option of filing within the same period. OCA St. 4, p. 69-70; OCA St. 4SR, p. 28.

119. PAWC's proposed ECIC would be a charge imposed above and beyond the normal fixed and volumetric charges imposed on residential customers. OCA St. 5, p. 90.

120. The costs PAWC is proposing to recover through the ECIC would ordinarily be assigned to each customer class based on results of a cost of service study. OCA St. 4, p. 67.

Low-Income Customer Assistance

A. Affordability Analysis

121. PAWC conducted a detailed analysis of the affordability of its water and wastewater services. *See* PAWC Ex. CBR-1 and CBR-2.

122. PAWC prepared, for both water and wastewater services, an Enterprise-Level analysis of affordability, which considered the affordability of service at a high-level over a multi-year period, and a Community-Level analysis, which presents a focused analysis of affordability of service at the individual customer level under current and proposed rates and current economic conditions. PAWC St. 10, p. 5; PAWC St. 10-R, pp. 3-4.

123. The Company's affordability analysis concludes that the Company's water and wastewater services have been, are, and are expected to continue to be affordable for the majority of its residential customers, including under the rates proposed in this case. There are, however, groups of customers for whom affordability of water and wastewater services may be challenging. PAWC St. 10, p. 22; *see also* PAWC St. 10, p. 7 (results of Water Enterprise-Level Analysis); pp. 8-9 (results of Wastewater Enterprise-Level Analysis); pp. 15-17 (results of Water and Wastewater Community-Level Analyses).

B. H20 Bill Discount Program

124. PAWC's existing BDP provides bill discounts to customers whose annual household incomes fall between 0% and 150% of FPL. There are three tiers of discounts within the program and customers with the lowest incomes receive the highest percentage discounts. PAWC St. 10, p. 23; PAWC St. 10-R, p. 28.

125. The Company is proposing to keep the existing three tiers without any changes and add a fourth tier of eligibility to expand the program offerings to customers whose household incomes are between 151% and 200% of FPL. For water customers in this fourth tier of eligibility, the Company is proposing to offer discounts of 30% on the 5/8" meter charge and 15% on the volumetric rate for water service and for wastewater customers in this fourth tier of eligibility, the Company is proposing to offer a discount of 20% on the total wastewater bill. PAWC St. 10, pp. 23-26; PAWC St. 10-R, pp. 28-29.

126. OCA supported the proposed expansion of the BDP to include a fourth tier, but recommended a higher discount percentage for that fourth tier and increases to certain discounts for the existing tiers, which CAUSE-PA supported. OCA St. 5, pp. 45, 49-50; CAUSE-PA St. 1, pp. 44-54.

127. PAWC does not oppose the specific tier-level discount changes recommended by OCA and CAUSE-PA. PAWC St. 10-R, p. 31.

C. Hardship Fund

128. The H2O Program provides Hardship Grants for qualifying customers with annual household incomes at or below 200% of FPL and that have made a payment of at least $50 over the last 90 days. A customer may receive a Hardship Grant equal to the customer's total account balance at the time of grant issuance, up to the maximum annual grant amount of $500 for water service and $500 for wastewater service. H2O Hardship Grants are funded through an annual shareholder donation, currently $625,000 for water and $125,000 for wastewater, as well as customer and employee donations. PAWC St. 9, pp. 13-14; PAWC St. 14-R, pp. 15-16.

129. To be eligible for a Hardship Fund Grant, a customer must have made a payment of at least $50 over the last 90 days. PAWC St. 14-R, pp. 15-16.

130. PAWC is working with its Hardship Fund administrator to enable customers to apply for multiple Hardship Grants during a program year. *See* PAWC St. 14-R, p. 16.

131. OCA has proposed that PAWC increase the maximum income eligibility for its hardship grants to 250% of the Federal Poverty Level. OCA St. 5, p. 66.

D. Conservation Assitance

132. CAUSE-PA recommended that PAWC develop and implement a comprehensive conservation and line repair/replacement program for all customers below 200% of FPL. CAUSE-PA further recommended the targeting of high-usage customers, annual reporting, and coordination with other utility programs. CAUSE-PA St. 1, pp. 63-64.

133. Low-income usage reduction programs ("LIURPs") are required under Pennsylvania law for electric distribution companies ("EDCs") and natural gas distribution

companies ("NGDCs") only and are part of their broad universal service plans. PAWC St. 14-R, p. 13.

134. There are detailed LIURP regulations addressing many of the items recommended by CAUSE-PA, including prioritizing high users, reporting, and utility coordination. *See* 52 Pa. Code §§ 58.1, *et seq*.

E. Low-Income Customer Outreach, Screening, and Intake

135. PAWC employs a multi-prong approach to inform customers about the benefits provided by the H2O Program, including direct customer communication (e.g., bill inserts, social media, websites), participation in PUC consumer education events and local community events (e.g., customer assistance program fairs and senior fairs), and Dollar Energy Fund outreach (e.g., public service announcements and community speaking). PAWC St. 9, pp. 14-16; PAWC St. 14-R, p. 7.

136. In order to target particular communities in need, such as areas with a high percentage of customers at or below 50% of FPL, the Company has deployed an internal analytic process. PAWC St. 14-R, pp. 8-9.

137. If customers access the "myWater" customer portal, they will see information about bill assistance self-service options, as well as a link to information on PAWC's H2O Programs and instructions for how to apply. PAWC St. 9-R, p. 11.

138. Between December 2020 and November 2023, PAWC has increased participation in its BDP by over 30%. PAWC St. 14-R, p. 8.

139. When a customer calls in seeking payment assistance, customer care agents ("CCAs") are trained to direct customers to call DEF to enroll. PAWC St. 9-R, p. 11.

F. Data Collection, Reporting, and Monitoring of Low-Income Programs

140. PAWC does not have enrollment benchmarks for BDP enrollment. PAWC St. 14-R pp. 9-10.

141. PAWC customers are currently considered "confirmed low-income" once they verbally provide income documentation verifying their income to PAWC. PAWC currently only verifies income information in connection with its H20 Hardship Grant program, which is administered by the DEF. PAWC St. 14-R pp. 9-10 .

G Comprehensive Written Universal Plan

142. PAWC does not have a written Universal Service Plan. PAWC St. 14-R pp. 12.

143. Universal Service Plans and the related full and timely cost recovery through universal service cost riders are only required for EDCs and NGDCs under Pennsylvania law. 52 Pa. Code § 54.74; 52 Pa. Code § 62.41; 66 Pa.C.S. § 2804(8).

H. Administration of PAWC's Low-Income Assistance Program

144. PAWC regularly meets with the DEF regarding program administration and addresses any issues as they arise. PAWC St. 14-R, p. 14.

145. PAWC has full access to information regarding DEF fund balances, application processing, application status and standard reports through DEF's Grant Management System. PAWC St. 14-R, p. 14.

146. DEF provides the Company with standard periodic reports on application and grant activities, and the Company can ask DEF for additional reports as needed. PAWC St. 14-R, p. 14.

Service Quality and Customer Service Issues

A. Customer Service Performance

147. The Customer Service Organization ("CSO") operated by American Water Works Service Company, Inc. ("Service Company") supports the customer service needs of PAWC and the other American Water utility subsidiaries, including customer call handling and billing. PAWC St. 9, pp. 2-5.

148. PAWC and the CSO leverage multiple sources of customer feedback to monitor customer satisfaction, including targeted surveys taken immediately after phone, field and customer portal interactions and a customer satisfaction survey of all PAWC customers conducted quarterly. PAWC St. 9, pp. 7-8.

149. PAWC and the CSO identify trends from customer feedback provided via transaction surveys, including from customers seeking bill assistance, requesting payment arrangements, raising inability-to-pay issues, or responding to disconnection notices. PAWC St. 9-R, p. 10.

150. The CSO's hiring and recruitment efforts over the past several years have reduced wait times and the call abandonment rate for customers that do not utilize the courtesy call back ("CCB") feature. PAWC Statements 9, pp. 9-13 & 9-R, pp. 3-4.

151. The calculation of CSO service levels excludes calls answered by the interactive voice response ("IVR") and customers who elected a CCB. PAWC St. 9-R, pp. 4-5.

152. The performance levels of the CSO and third-party call handling agencies are already monitored on a daily basis. PAWC St. 9-R, pp. 6-8.

153. The CSO conducts extensive training of its agents on Pennsylvania rules and regulations before they are permitted to handle calls from PAWC customers. This training includes an 80-page training module and a knowledge test, and the CSO has a quality assurance process focused on CCA adherence to Chapter 14 of the Code and Chapter 56 of the PUC's regulations. PAWC Statements 9, pp. 6-7 & 9-R, pp. 8-9.

154. PAWC: (1) analyzes every customer complaint it receives (other than informal mediation complaints that do not involve any allegation of wrongdoing by the Company), to determine the contributing factor, if any; (2) makes a root-cause determination for every such customer complaint; (3) logs a root cause for each such complaint, where a contributing factor is identified; (4) generates reports reflecting customer complaint root causes; (5) analyzes root- cause trends; and (6) regularly discusses root-cause trends with the CSO and the other appropriate business units. PAWC St. 14-R, pp. 21-24.

155. Several PAWC customers expressed concern at the public input hearings over either not receiving paper bills for the month of December 2023 or receiving mailed bills late. *See* City of Scranton St. 1, p. 6; State Rep. Kyle T. Donahue St. 1, p. 6.

156. PAWC investigated with CSO's print vendor to validate whether all 2023 bills were printed and mailed and found that there were no issues generating, printing, or mailing the bills. PAWC St. 9-R p, 18.

157. PAWC determined that the delayed or not-received bills were the result of United States Postal Service ("USPS") delays, particularly in the Scranton region. PAWC St. 9-R, p. 18.

158. PAWC has agreed to, as a courtesy, automatically credit a late fee charge assessed in January to any Scranton area customer who did not have any late fees in the last quarter of 2023. Any Scranton area customers who do not meet these requirements for an automatic credit, and who may have been assessed a late fee in January due to postal service delays, may still call and request that the late fee be credited. PAWC St. 9-R, p. 18; Tr. 1976-77.

B. Tenant Issues and Protections

159. PAWC complies with the Discontinuation of Services to Leased Premises Act ("DSLPA") and the Company's processes are consistent with the Utility Services Tenants Rights Act ("USTRA"), which applies to municipal corporations and municipal authorities rather than regulated utilities. PAWC St. 14-R, p. 18; CAUSE-PA St. 1, pp. 75.

160. PAWC takes steps to determine whether service addresses should be coded as landlord-ratepayer/tenant occupied. PAWC St. 14-R, pp. 18.

161. PAWC relies on information from landlords, tenants, and field service representatives to determine if a property is reasonably likely to be tenant occupied and coded as such. PAWC St. 14-R, pp. 18.

162. PAWC currently has over 20,000 residential accounts coded as tenant occupied. PAWC St. 14-R, pp. 18.

163. If delinquent, these accounts go through the 37-day notice process prior to any service termination as required by the DSLPA and USTRA. PAWC St. 14-R, pp. 18.

164. PAWC utilizes the same processes prior to terminating water services to landlord ratepayer properties at the request of municipal sewer providers as PAWC utilizes for terminations of service that are initiated by PAWC. PAWC St. 14-R, pp. 18.

165. The notices that the affected tenants receive provide directions on how to contact PAWC in order to continue water service, and tenants do not need to rely on the municipal authority to contact PAWC to assert their rights. PAWC St. 14-R, pp. 19.

C. Water Services Act and Section 12.1(H) of Water Tariff

166. PAWC proposed Water Tariff Rule 12.1(H) in its original filing to address termination at the request of a non-Company wastewater provider. PAWC St. 4, p. 34.

167. In rebuttal, the Company replaced proposed Rule 12.1(H) with a proposed new Section 12.8. PAWC St. 4-R, pp. 10-11.

168. The OCA proposed changes to the language of proposed Rule 12.1(H). OCA St. 6-SR, pp. 18-19.

169. Prior to terminating service under the Water Services Act ("WSA") a 10-day termination notice must be mailed or posted at the property. If during that 10-day period, the person liable for the unpaid charges delivers a written statement under oath to the municipal wastewater provider averring a just defense to all or part of the claim, the water service is not to be shut off until the claim has been judicially investigated. PAWC St. 14-R, p. 19.

170. PAWC's Commission-approved contracts with sewer providers require the sewer provider to issue the appropriate termination notice to customers. PAWC St. 14-R, p. 19.

171. PAWC has a process in place to verify that the municipal sewer provider has complied with all of its obligations under the WSA, which includes requiring a responsible municipal official to certify both that the notice was provided and the lack of any just defense filing. PAWC St. 14-R, p. 19; PAWC St. 14-R, p. 19.

172. PAWC recently modified the template that municipal entities submit in order to request water service shut-offs to include a confirmation that the municipality has not received a medical certification for the relevant premise. PAWC St. 14-R, p. 20.

D. American Water Resources

173. American Water Resources ("AWR") has offered optional products and services, such as water line and sewer line protection plans, to PAWC customers for over 20 years. PAWC St. 9-R, p. 12.

174. After enrolling with AWR, customers are charged a monthly fee on their PAWC bills so that if their water or sewer line breaks, AWR will deploy a contractor to fix the water or sewer line under the warranty program at minimal up-front cost to the customer. PAWC St. 9-R, p. 12.

175. **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**

176. Although American Water sold its interest in AWR in December 2021, which ended the affiliate relationship between AWR and PAWC, the day-to-day relationship between PAWC and AWR remains the essentially the same by virtue of a Utility Agreement executed by PAWC and AWR at the time of the sale. PAWC's relationship with AWR as a partner who provides optional warranty products and services to its customers has remained unchanged over the last two decades. PAWC St. 9-R, pp. 12-15; *see also* CONFIDENTIAL OCA Ex. BA-8.

177. No other provider of non-utility services and products is seeking access to PAWC's bills. PAWC St. 9-R, p. 16.

178. The Utility Agreement states that PAWC is not precluded from offering similar on-bill services to another entity. CONFIDENTIAL OCA Ex. BA-8, p. 2.

179. PAWC has no authority to influence AWR's prices or other terms under its contracts with customers. PAWC St. 9-R, p. 16.

180. PAWC passes through AWR's charges on its bills as a separate line item and no customers' service is terminated for non-payment of such charges. PAWC St. 9-R, p. 16.

181. If a customer no longer wants to pay for AWR's products and services, the customer can stop paying for them with no negative repercussions on their water or wastewater service. PAWC St. 9-R, p. 16.

182. AWR has historically used PAWC's trademark and logo for marketing purposes, and disclosures are included on all marketing materials explaining that AWR is not affiliated with PAWC, its products and services are optional, and AWR's prices are not determined by PAWC. PAWC St. 9-R, pp. 15.

183. **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**

E. Main Extensions

184. Mr. Phil Choff is part of the Jefferson Township Municipal Authority ("JTMA") Formal Complaint requesting an extension of water service within PAWC's existing service territory in Avella, Washington County, to at least 39 residents who struggle with quantity and quality of water. Tr. 1840-41; OCA St. 7-Supp., pp. 8-9, Ex. TLF-4.

185. PAWC estimates that the main extension proposed by the Jefferson Township Municipal Authority would require the Company to invest $5.2 million to install mains at 39 locations along the route presented in OCA Exhibit TLF-4. PAWC St. 3-R, pp. 3-4.

186. The Company is continuing to evaluate whether the proposed main extension is eligible under Rule 27.1(F) of its tariff, which authorizes main extensions within the Company's existing service territory to be installed without customer contributions subject to Commission approval in order to address health and safety concerns. PAWC St. 3-R, pp. 4-5.

F. Pressure Surveys and Pressure Reducing Valves

187. Rule 4.7 of the Company's Water Tariff outlines the requirement for customers to install and maintain a pressure reducing valve ("PRV") if the pressure at their service location exceeds 100 pounds per square inch ("psi"). This tariff requirement impacts a small percentage of customers and PAWC has a process in place whereby field service representatives educate customers in the field regarding PRV requirements. PAWC St. 2-R, p. 11.

188. PAWC agreed to establish a notification process for customers "where PAWC systems regularly exceed 100 pounds per square inch. Tr. 1983.

189. In this notification, the Company will educate the customer that they are responsible for installing a PRV at their service location under PAWC's tariff and encourage them to contact a licensed plumber for guidance, installation, and maintenance of PRVs. Tr. 1983.

190. The Company has agreed to utilize its GIS system to identify these customers in higher pressure areas to receive this notification. Tr. 1983-84; *see also* Tr. 2054-55.

Miscellaneous Issues

A. Customer Notice

191. In accordance with 52 Pa. Code § 53.45, PAWC provided notice of its proposed rates to all of its customers that reflected the Company's proposed tariffed rates and Act 11 wastewater-to-water revenue requirement allocation. PAWC St. 1-R, p. 25.

192. The Company's notice was consistent with each of the notices in its rate cases since the enactment of Act 11, including the Company's proposed wastewater-to-water revenue requirement allocation in each case. PAWC St. 1-R, p. 26.

193. Customers are able to contact PAWC to determine how proposed rate changes would impact their bills or visit the Company's website to review the Company's proposed rates. PAWC St. 1-R, p. 27.

194. The Company provides detailed notice of its rate changes to customers once they are approved by the Commission through a bill insert. PAWC St. 1-R, p. 27.

IV. <u>PUBLIC INPUT HEARINGS</u>

Due to significant public interest in this proceeding, as well as requests from several Pennsylvania state legislators, the Parties agreed to schedule a series of public input hearings within PAWC's service territory as well as telephonic public input hearings to provide opportunities for customers to express to the Parties and the Commission their views on PAWC's base rate filing. To that end, eight in-person public input hearings were held as follows: Port Vue, PA on January 29, 2024, at 1:00 p.m. and 6:00 p.m.; Scranton, PA on January 30, 2024, at 1:00 p.m. and 6:00 p.m.; Exeter Township, PA on January 31, 2024, at 1:00 p.m. and 6:00 p.m.; and Harrisburg, PA on February 6, 2024, at 1:00 p.m. and 6:00 p.m. Additionally, four telephonic public input hearings were held as follows: February 5, 2024, at 1:00 p.m. and 6:00 p.m. and February 7, 2024, at 1:00 p.m. and 6:00 p.m.

A total of 217 customers provided public input testimony: 32 in Port Vue, 52 in Scranton, 58 in Exeter, 10 in Harrisburg, and 65 by telephone. Below is a summary of public input testimony, including a table showing types of topics covered by location.[4]

Location (Date/Time)	Affordability	Quality of Service	PAWC supportive	Other
Port Vue (1/29/24 1pm)	10	3	7	1
Port Vue (1/29/24 6pm)	12	2	0	7
Scranton (1/30/24 1pm)	23	11	6	11
Scranton (1/30/24 6pm)	22	16	0	12
Exeter (1/31/24 1pm)	31	18	1	22
Exeter (1/31/24 6pm)	17	6	1	10
Telephonic (2/5/24 1pm)	9	3	13	4
Telephonic (2/5/24 6pm)	4	0	2	2
Harrisburg (2/6/24 1pm)	1	2	4	1
Harrisburg (2/6/24 1pm)	1	0	3	1
Telephonic (2/7/24 1pm)	6	3	11	3
Telephonic (2/7/24 6pm)	9	3	5	7
TOTAL	**145**	**67**	**53**	**81**

[4] The table below displays more than 217 topics testified on because a public input witness may have testified to more than one topic.

A. Affordability[5]

In Port Vue during the 1:00 p.m. public input hearing on January 29, 2024, 10 people testified to express affordability concerns with PAWC's current and/or proposed rates. State Representative Matthrew Gergeley testified that the community needs affordable access to clean water and the proposed rate hikes threaten access. Tr. 134-140, 149-150. Mark Tortorice, President of Port Vue Borough Council, questioned why commercial, industrial, and municipal users get a discount but not the people. Mr. Tortorice testified that the system is old, but people can't afford the pay to update the system. Tr. 141-149, 165-167. Debra McCarthy-Arnone, with the AARP, testified that AARP supports adequate, drinkable, and affordable water for everyone, but their members cannot afford PAWC's proposal. Tr. 180-184. Robert Betters testified that Port Vue has the highest sewage rates in Pennsylvania, and Port Vue is one of the poorest areas in the state. Tr. 225-228.

In Port Vue during the 6:00 p.m. public input hearing on January 29, 2024, 12 people testified to express affordability concerns with PAWC's current and/or proposed rates. State Representative Nick Pisciottano testified that higher rates are negatively impacting businesses, and there needs to be slower increases over time so that PAWC's costs are not immediately applied to every consumer. Tr. 288-291. David Deliman testified that he can't afford these rate increases, and his next move will probably be out of Port Vue and Allegheny County altogether. Tr. 295-298. Pauline Bryner testified that Port Vue is 60% senior citizens, if not more, and the impact of increases would mean the difference between food and medicine. Tr. 312-328. Jody Goughnour testified that she's on LIHEAP and CAP when she never had to be before. Tr. 336-343. Donna Priselac testified that her sewage bill used to be half of what her water consumption was, and now it is more than double what her water bill is. Tr. 352-354.

In Scranton during the 1:00 p.m. public input hearing on January 30, 2024, 23 people testified to express affordability concerns with PAWC's current and/or proposed rates.

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[5] Due to the relatively high number of testimonials expressing concerns with affordability, as well as the generally consistent nature of the remarks, the number of testifiers and a selection of testimonials is provided in this section.

State Senator Marty Flynn testified that PAWC's last increase crippled his constituents, that customers pay for infrastructure improvements and low-income programs, and that his constituents can't afford to pay this. Tr. 397-404. State Representative Bridget Kosierowski testified that PAWC's rate hike is too much for her constituents, and PAWC should bear a larger share of the cost to improve their utility systems rather than ratepayers. Tr. 405-410. State Representative James Haddock requested that the rate increase be denied, and two double-digit rate increases in two years in unconscionable. Tr. 411-418. State Representative Kyle Mullins testified that the massive request is one step too far as ratepayers are still adjusting to the 2022 rate increase. Tr. 418-423. State Representative Maureen Madden testified that PAWC has received exorbitant increases over the years, and PAWC needs to care more about customers than stockholders. Tr. 424-429. Max Conway, Mayor of Dunmore, testified that Dunmore is a borough deeply impacted by the proposed water increases and the rates will bring economic hardship to his residents. Tr. 431-444. Mary Tanealian testified that her income is not at the poverty level, but she has issues paying her bills. Tr. 450-462. Yehudah Fink, with David Elliot Poultry Farm, testified that his company is a large user of water, and an increase will cause an increase to prices. Tr. 562-567.

In Scranton during the 6:00 p.m. public input hearing on January 30, 2024, 22 people testified to express affordability concerns with PAWC's current and/or proposed rates. Lackawanna County Commissioner Bill Guaghan testified that the proposed rate hike threatens to place an additional burden on already stretched budgets. Tr. 607-611. Dunmore Borough Council President Janet Brier testified that Dunmore and Scranton are not wealthy communities, and the Commission should deny PAWC's request. Tr. 613-617. Paul Miller questioned how he can afford this rate hike on a fixed income. Tr. 652-655. Scranton School Board Director Sean McAndrew testified that any increase like this hurts how we operate and affects our student education. Tr. 669-675. Joan Hodowanitz testified that she rents, and her landlord will pass these increases on to her. Tr. 745-750.

In Exeter Township during the 1:00 p.m. public input hearing on January 31, 2024, 31 people testified to express affordability concerns with PAWC's current and/or proposed rates. State Senator Judy Schwank testified that she opposes the rate increase. Tr. 788-797.

Kathleen Schwartz testified that she is a 30-year resident of Exeter Township and that since the sewer facilities were sold, she's paying between 170 and 200% more for sewer. Tr. 806-811. Priscilla Gentry testified that she is on a fixed income and her water is unaffordable. Tr. 815-819. Alicia Shussett testified that she moved to Exeter in 2019 and her bill has increased at an alarming rate. Tr. 832-839. Alan Blackburn testified that since 2019 his rates have gone up almost 32% for water and over 200% for wastewater. Tr. 875-879. Michael Knoll testified that his bills have doubled between 2019 and 2023 and he's joined fitness clubs to shower there rather than at home. Tr. 897-901. Ruth Benderoth testified that her sewer bills have increased 576.9% over what she was paying before PAWC acquired Exeter Township's wastewater. Tr. 913-917, 970-974. Shawn Schower testified that his water and wastewater bill is more than all of his other utilities combined. Tr. 950-955.

In Exeter Township during the 6:00 p.m. public input hearing on January 31, 2024, 17 people testified to express affordability concerns with PAWC's current and/or proposed rates. Exeter Township Supervisor George Bell testified that he is concerned about low-income families and seniors. Tr. 1009-1015. Judie Cox testified that Exeter Township has a bad reputation for those looking to move there because of the high-water bills. Tr. 1023-1027. Cindy Murphy testified that since PAWC took over Exeter's wastewater, her bills have gone up an average of 37% per year, and her water bills are higher than gas and electric. Tr. 1028-1033. Paul Brown testified that he is trying to figure out how to retire and doesn't know how to budget for a water bill 10 years out that is doubling every four years. Tr. 1063-1066. Michelle White testified that she pays more than water customers in other townships, and she conserves. Tr. 1089-1095.

During the 1:00 p.m. telephonic public input hearing on February 5, 2024, nine people testified to express affordability concerns with PAWC's current and/or proposed rates. State Representative Eddie Day Pashinski testified that increases in costs in everything has caused financial concerns for an increased number of his constituents. Tr. 1136-1142. Daniel Skvarla testified that the increase of the water bill average 24% per month on top of the service charge of 14% adds up to 38% per month, and that is not a reasonable request. Tr. 1151-1154. Victor Rodriguez, with the Pennsylvania Developers' Council, testified that his organization cannot provide affordable housing with the bills they already have. Tr. 1236-1241. Kathleen Townsend testified that she is retired on a limited income, and water and sewer bills are outrageously high. Tr. 1277-1286. Gerald Erdman testified that rates doubled between 2021 and 2024, and for capital investment, there should be a plan that spreads the rate increases gradually to avoid step changes to customer bills. Tr. 1296-1303.

During the 6:00 p.m. telephonic public input hearing on February 5, 2024, 4 people testified to express affordability concerns with PAWC's current and/or proposed rates. Joli Harrington testified that, as someone on Social Security, the increase is far above the cost of living increase that she gets. Tr. 1352-1357. Jeronimo Hernandez testified that the financial abuse of water has forced me to make my exit plan from Scranton. Tr. 1369-1378. Dominick York testified that he is concerned about the proposed increase given the significant increase that just occurred in February 2023. Tr. 1391-1397. Nicole VanCoeur testified since she has been a PAWC customer her bill has gone up threefold and she is vehemently opposed to any rate increases. Tr. 1401-1403.

In Harrisburg during the 1:00 p.m. public input hearing on February 6, 2024, one person testified to express affordability concerns with PAWC's current and/or proposed rates. Michael Langan testified that there has been a dramatic increase in the cost for water over the years. Tr. 1538-1548.

In Harrisburg during the 6:00 p.m. public input hearing on February 6, 2024, one person testified to express affordability concerns with PAWC's current and/or proposed rates. Gary Iorfido, with AARP, testified that many are struggling to make ends meet with current inflationary pressure, and AARP's members cannot afford PAWC's proposal. Tr. 1585-1593.

During the 1:00 p.m. telephonic public input hearing on February 7, 2024, six people testified to express affordability concerns with PAWC's current and/or proposed rates. James Lingwall testified that PAWC is taking unfair advantage of customers to subsidize the cost of doing regular business, and that with inflation customers cannot afford another rate hike along with other utilities. Tr. 1653-1658. Charles Wilson testified that he has experienced cost increases which he believes exceed the rate of inflation. Tr. 1696-1703. Tacy Rutherford testified that she has a family of 13 and her monthly bill at the current PAWC rate average $580. Tr. 1704-1714. Zachary Zaff, with Sandcastle Water Park, testified that PAWC's proposal is unreasonable and will drastically affect the park's ability to continue to employ several thousand team members, along with other impacts to the park. Tr. 1737-1741. Nereida Colon-Gonzalez testified that she is opposed to the rate increase because it is a burden to the middle class. Tr. 1742-1746.

During the 6:00 p.m. telephonic public input hearing on February 7, 2024, nine people testified to express affordability concerns with PAWC's current and/or proposed rates. State Representative Christina Sappey testified that she strongly opposes the rate increase because of its negative impact on individuals, families, senior citizens, and those on fixed incomes. Tr. 1787-1791. State Senator Katie Muth testified that when paychecks are not going up and there are other things with rising costs, it is unacceptable to put these charges for acquisitions on our ratepayers. Tr. 1791-1797. Thomas Miller testified that the Commission has a just say yes attitude to allow PAWC to impose financial hardship on its customers. Tr. 1819-1824. Joanna Stuck testified that her lowest bill in 2021 was $178, and if there is an increase, her water bill will be over $400 a month, and she is considering moving out of Exeter Township. Tr. 1856-1861. Maria Figueroa testified that she is a student with a fixed stipend and with each rate increase her stipend has been dwindling. Tr. 1869-1872. Carla Seidel testified that, prior to PAWC purchasing Exeter wastewater her bill was $34 and now it averages $200, and bills are not sustainable. Tr. 1873-1880.

B. Quality of Service

In Port Vue during the 1:00 p.m. public input hearing on January 29, 2024, State Representative Matthew Gergeley testified that old systems need to be fixed, but how the rates are increased needs to be evaluated. Tr. 149-150. Lissa Ludinich testified that metal plates and multiple sinkholes are on her street. Tr. 236-243. Victoria Curran testified that there are plates on the road. Tr. 244-248.

In Port Vue during the 6:00 p.m. public input hearing on January 29, 2024, Jody Goughnour testified that she had a bill for $57.30 even though she had zero usage. Tr. 336-343. Diamond Vargo testified that she is billed for 4,000 gallons a month, but she only uses between 100 and 150 gallons a month and she doesn't have any leaks. Tr. 345-347.

In Scranton during the 1:00 p.m. public input hearing on January 30, 2024, State Senator Marty Flynn testified that some months customers don't get bills but then get a double bill with a late charge on it, and that at times there is dirty water. Tr. 397-404. Mary Tanealian testified that she drinks bottled water because the quality of her water is horrible. Tr. 450-462. Marie Ratchford-Demkosky testified that there is inconsistency in what she's charged per gallon each month. Tr. 479-481. Stephen Nelson testified that the water is not good to drink. Tr. 514-517. James McDermott testified that he has a sewage protection plan and there was a delay in addressing his problem, and also the water is dirty. Tr. 528-530. John Borer testified that his water has been ruined by water contaminated with rust. Tr. 537-540. Orestes Masdeu testified that PAWC forgot to bill him and then billed him a late fee. Tr. 541-543. David Dobrzyn questioned late fees for supposedly late bills. Tr. 547-550. Theresa Fagarlin testified that the water is cloudy, smells funny, and tastes like metal. Tr. 551-556. Joe Gilhooley testified that the water is unacceptable. Tr. 567-572. David Bergerhoff testified that the water is dirty, caused him stomache aches, and rate increases should be suspended until they rectify these issues. Tr. 573-580.

In Scranton during the 6:00 p.m. public input hearing on January 30, 2024, Dunmore Borough Council President Janet Brier testified that a water main break on Thanksgiving Day in 2023 destroyed basements and caused other disruptions, and PAWC was aware of the problem for years but did not fix it. Tr. 613-617. Scranton City Councilmember William King testified that he was contacted by constituents that did not get a December bill and were later hit with late fees. Tr. 627-638. Scranton City Councilmember Jessica Rothchild testified that PAWC paving projects were not properly done and PAWC has provided dirty water. Tr. 642-649. Paul Miller testified that his water has been dirty. Tr. 652-655. Fay Franus testified to not being billed then receiving a late fee, and that PAWC installed a new water line in her neighborhood but didn't return the street to the way it was and now when it rains water goes into basements. Tr. 656-664. Greg Dombroski testified that he has dirty water. Tr. 665-668. Scranton School Board Director Sean McAndrew testified that many times in the summer he had dirty water or no water. Tr. 669-675. Doris Koloski testified that she has dirty water. Tr. 676-681. Elaine Sporko testified that she has poor water quality. Tr. 684-690, 761-762. Frank Serafini testified that he has dirty water. Tr. 691-698, 750-753. Linda Bonckiewicz testified that she has dirty water. Tr. 700-703. David Dobrzyn testified that he experiences poor water quality, and that PAWC removed a curb and replaced it with gravel. Tr. 703-707. Scranton City Councilmember Mark McAndrew testified that residents are afraid to consume the water because of the odor and appearance, and he has received complaints of people receiving late bills with late fees. Tr. 711-714. Thomas Coyne testified that the water has excessive chlorine, and he has experienced dirty water. Tr. 725-730. David Bergerhoff testified that the water quality is poor. Tr. 738-745. Joan Hodowanitz testified that the water is unpalatable, dirty, and smells. Tr. 745-750.

In Exeter Township during the 1:00 p.m. public input hearing on January 31, 2024, Amanda Johnsen testified that fluctuating billing cycles make it difficult to budget for high bills, and in some areas the water is undrinkable. Tr. 798-806. Kathleen Schwartz testified that the water pressure is poor, and she buys drinking water because water quality is garbage. Tr. 806-811. Diane Michalowski testified that line items on the invoices change. Tr. 811-814. Priscilla Gentry testified that the water quality is not good. Tr. 815-819. Keith Sauer questioned the billing period as anywhere between 27 and 35 days. Tr. 820-826. Ron Foy testified that he should be able to not wash clothes and still get full water pressure out of the sink. Tr. 827-832. Alice Shussett testified to changing billing periods, and that the water is hard and has a bad taste. Tr. 832-839. Judith Kraines testified that the water is hard and wears out appliances too soon. Tr. 844-848. Dorothy Pfeffer testified that PAWC provides inconsistent billing. Tr. 852-856. Sherri High testified that she has long waits on the phone to ask questions, and that she is not allowed to make payments over the phone. Tr. 862-865. Fiona Reiter testified that the water was atrocious before she put in a water softener. Tr. 866-868. Sheila Jones testified that the water quality is poor, necessitating the purchase of a water filtration system and to buy bottled water. Tr. 869-874. Stephen Anton testified to being billed sometimes for 4 weeks and sometimes for 5 weeks. Tr. 885-888. Michael Knoll complained about the billing cycle running between 28 and 35 days. Tr. 897-901. Steven Taylor questioned the accuracy of his bills. Tr. 944-950. Shawn Schower testified that bills come sporadically. Tr. 950-955. Michelle Kircher, an Exeter Township Supervisor, testified that water quality is terrible and water pressure is up and down. Tr. 955-961.

In Exeter Township during the 6:00 p.m. public input hearing on January 31, 2024, Jordan Henning testified that the meter wasn't registering usage, and it took PAWC months to correct. Tr. 1016-1023. Cindy Murphy testified that she has to install a high-quality water filtration system because of the quality of the tap water. Tr. 1028-1033. Patricia Finley testified to varying billing cycles. Tr. 1034-1041. Eva Ross testified that PAWC does not provide adequate water pressure or quality, and that the number of days on bills varies each month. Tr. 1041-1047. William Clark testified that he keeps getting asked to inspect his property for lead pipes, but he is not a water customer. Mr. Clark also testified that PAWC bills by whatever days they want to. Tr. 1070-1076. Gail Coleman testified that PAWC has threatened to shut off her water even though she has a well. Tr. 1076-1081.

During the 1:00 p.m. telephonic public input hearing on February 5, 2024, Carla Moran testified that she doesn't use the water for drinking or cooking because there's a lot of dirt in the water. Tr. 1166-1172. Kendra Robinson testified that the water tastes bad, smells like chlorine, and hardness of water is damaging appliances. Ms. Robinson also testified to bill cycle fluctuations. Tr. 1267-1277. Kathleen Townsend testified that the water quality is hard and tastes horrible. Tr. 1277-1286.

In Harrisburg during the 1:00 p.m. public input hearing on February 6, 2024, Jodi Asay, with the Saw Creek Estates Community, testified that broken service lines are causing high bills and flooded basements. Ms. Asay also testified that water pressure is damaging her water system and result in higher bills. Tr. 1472-1523.

During the 1:00 p.m. telephonic public input hearing on February 7, 2024, Charles Wilson testified that water quality levels only seem to decline, and there is a chlorine odor and mineral deposits in his toilet water tanks. Tr. 1696-1703. Tacy Rutherford testified to intense chlorine odor and taste. Tr. 1704-1714. Nereida Colon-Gonzales testified that the water tastes nasty, and hard water has damaged her appliances. Tr. 1742-1746.

During the 6:00 p.m. telephonic public input hearing on February 7, 2024, Shaun Keperling testified that customer service interactions have been awful, including long waits to speak with someone and little to no help. Tr. 1799-1812. Keith Sauer testified that the water quality is hard and has a strong chlorine smell and taste. Tr. 1843-1855. Joanna Stuck testified that to varying billing cycles, and that she has experienced hard water. Tr. 1856-1861. Ofamata Ejike testified that PAWC should improve communications of programs to customers. Tr. 1862-1868.

C. PAWC Supportive

In Port Vue during the 1:00 p.m. public input hearing on January 29, 2024, Jamie Colecchi testified that he supports PAWC's base rate filings to support infrastructure improvement. Tr. 168-174. Emanuel Paris testified that he supports the rate increase because infrastructure is outdated. Tr. 176-179. Jody Robertson, with Dollar Energy Fund, testified that PAWC has provided assistance to income-eligible households. Tr. 184-193. Joe Casilli testified that he is a utility contractor who supports the increase due to the need to replace aging infrastructure. Tr. 204-208. Jordan Grady, President of the Butler County Chamber of Commerce, testified to PAWC employees' volunteer service, the need for a rate increase for infrastructure improvements, and PAWC's customer assistance programs. Tr. 209-213. Chris Heck, with the Pittsburgh Airport Area Chamber of Commerce, testified in favor of the rate increase to improve aging infrastructure. Tr. 214-220. Will Thomeier, Director of Economic and Tourism Development with the Washington County Chamber of Commerce, testified to PAWC's partnership with economic development projects in Washington County. Tr. 221-224.

In Scranton during the 1:00 p.m. public input hearing on January 30, 2024, John Augustine, with Penn's Northeast, testified that adequate funding is imperative for infrastructure improvement and maintenance. Tr. 482-487. Eileen Ferretti, with the North Branch Land Trust, testified to working with PAWC for conservation of undeveloped land. Tr. 488-492. Bruce

Reddock, with the Scranton Lackawanna Industrial Building Company, testified that PAWC's infrastructure activities have created 50,000 jobs in Lackawanna County and attracted community investments in excess of $2 billion. Tr. 493-501. William Hotaling, with Ixom Watercare, testified that he has worked with PAWC to make sure all constituents have safe, potable drinking water. Tr. 506-509. John Maday, with Riverfront Parks Committee, testified PAWC is a key community partner. Tr. 530-534. Richard Jenkins, with Pioneer Construction Company, testified that PAWC is critical to the growth and abilities of Pioneer Construction Company. Tr. 543-546.

In Exeter Township during the 1:00 p.m. public input hearing on January 31, 2024, Tim Fenchel, with the Schuylkill River Greenway National Heritage Area, testified that PAWC is a valued partner. Tr. 889-893.

In Exeter Township during the 6:00 p.m. public input hearing on January 31, 2024, Arthur Auchbach testified that he is an approved vendor for PAWC and asserted that PAWC is better equipped to handle problems than a municipality. Tr. 1048-1054.

During the 1:00 p.m. telephonic public input hearing on February 5, 2024, Gary Sanderson testified that it is important to maintain and improve potable water systems. Tr. 1143-1150. Brian Winslow, Watershed Conservation Director for Brandywine Red Clay Alliance, testified that PAWC has been a strong supporter of efforts to treat sourced water before it gets to the plant. Tr. 1174-1178. Robert Hughes, with the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation, testified that PAWC helps with efforts to clean up abandoned mine lands and restore waterways that are impacted by mine drainage. Tr. 1187-1195. Richard Black, with Brownsville Fire Company Number 1, testified that PAWC helps with equipment maintenance. Tr. 1196-1201. Lisa Brown, with Watersheds of South Pittsburgh, testified that PAWC is a partner with clean water efforts. Tr. 1202-1207. Laura Manion, with the Chester County Chamber of Business and Industry, testified that PAWC provides necessary infrastructure improvements. Tr. 1208-1213. Evan Midler, with Cross Creek Township, testified that PAWC's development projects reflect pivotal investment in anticipated water infrastructure. Tr. 1215-1221. Justin Bruce, with Bruce & Merrilees Electric, testified that

PAWC has a robust and responsible program to maintain and upgrade its infrastructure. Tr. 1221-1229. James Gross, with York City Parks Conservancy, testified that PAWC is a great community partner. Tr. 1230-1233. John Brutz testified that granting PAWC rate increase request will allow PAWC to continue to provide the highest quality of product and service. Tr. 1243-1249. Katherine Hetherington Cunfer, with the Greater Reading Chamber Alliance, testified that PAWC is a member of her chamber, and that, while no one likes to see their rates go up, everyone expects to turn on their faucets and be provided with safe, clean, and reliable drinking water. Tr. 1287-1295. Jason Winey, with the Pennsylvania Envirothon, testified that PAWC is a valued partner. Tr. 1306-1314. Raelynn Cox, with the United Way of the Capital Region, testified that PAWC has aided the United Way's Early Education Program. Tr. 1316-1321.

During the 6:00 p.m. telephonic public input hearing on February 5, 2024, Nelly Jimenez, with Alcamo, testified that PAWC provides support for Alcamo, an organization that provides services to families and children around Montgomery County. Bob Bielich, with Disaster Restoration Services, testified that PAWC is a very good company to work for. Tr. 1379-1387.

In Harrisburg during the 1:00 p.m. public input hearing on February 6, 2024, Kathy Anderson-Martin, with Big West Food Bank Pennsylvania, testified that PAWC has been a wonderful supporter of her group. Tr. 1433-1446. Clarence Hitz, with the Harrisburg YMCA, testified that PAWC has helped the YMCA host races. Tr. 1447-1458. William Dingman, with the Manada Conservancy, testified that PAWC has partnered with the Manada Conservancy since 2013 to promote and improve the water quality of the Swatara Creek. Tr. 1459-1471. Michael Iskric, with the Steelton-Highspire School District, testified that PAWC has provided support to the Steelton-Highspire School District. Tr. 1524-1538.

In Harrisburg during the 6:00 p.m. public input hearing on February 6, 2024, Kevin Hall testified that New Cumberland's decision to sell its wastewater treatment plant to PAWC had positive outcomes for New Cumberland. Tr. 1594-1605. Jessica Kemmerer testified that she supported PAWC's rate increase request because she understands the challenges posed by aging infrastructure. Tr. 1605-1608. Jason Beale, with the Central Pennsylvania Conservancy, testified that upgrading infrastructure improves the health of water quality. Tr. 1609-1611.

During the 1:00 p.m. telephonic public input hearing on February 7, 2024, State Representative Donna Oberlander testified to the positive activities of PAWC in her region (Clarion County and parts of Armstrong County). Tr. 1640-1646. State Representative Bud Cook testified that PAWC took control of the failing East Dunkard Water Authority and is providing safe drinking water to the residents and businesses in his district. Tr. 1647-1652. Vernon Ohler, with the City of Connellsville, testified that PAWC communicates well and provides infrastructure improvement. Tr. 1676-1679. Edward Powers, with Fire Service, testified that the ability to fight fire will be improved as the public water supply is expanded. Tr. 1681-1686. Steve Strange, with the East End United Community Center, testified that PAWC employees provide volunteer services. Tr. 1688-1695. Michael Grigalonis, with the Chester County Economic Development Council, testified that PAWC is a vital member of the business community. Tr. 1715-1722. William Kukurin applauded PAWC's infrastructure upgrades. Tr. 1723-1730. Daniel Feleck, with Low Kiski Water Rescue Team, testified that PAWC promotes volunteerism and community outreach. Tr. 1731-1736. Timothy Chamberlain, with Yardley-Makefield Fire Company, testified that PAWC's customer service is outstanding, and he supports PAWC's rate increase request because it will improve services and infrastructure. Tr. 1750-1753. John Papalia, with the Warren County Chamber of Commerce, testified that PAWC is a strong community supporter with infrastructure upgrades, community service, and assistance programs. Tr. 1754-1756. Daniel Beinhower, with EK Services, testified supporting PAWC's infrastructure improvements, which benefits the tradespeople his company employs. Tr. 1756-1761.

During the 6:00 p.m. telephonic public input hearing on February 7, 2024, William Adams with IBEW Local 654, testified supporting PAWC's infrastructure improvement activities because they provide jobs and public health benefits. Tr. 1813-1818. Kurt Henry, with the Conodoguinet Creet Watershed Association, testified that PAWC has provided support to his organization. Tr. 1825-1830. Diane Godshall, with Hyrdotech Environment, testified to a positive experience bidding for work with PAWC. Tr. 1831-1834. Leonard Wilson, with Kentrel Corporation, testified that, due to PAWC's commitment to infrastructure improvements, his company has been able to hire additional employees. Tr. 1835-1838. Muriel Nuttal, with Fayette County Chamber of Commerce, testified that PAWC is a partner in building and growing Fayette County. Tr. 1880-1887.

D. Other

The public input hearings also included a variety of topics other than concerns over affordability and quality of service, or expression of support for PAWC. As can be seen below, frequent other topics included: customers questioning why wastewater isn't metered like water; concerns over allocation of costs between the water and wastewater divisions; objections to proposals for revenue decoupling and the Environmental Compliance Investment Charge (ECIC); and criticisms of Act 12.

In Port Vue during the 1:00 p.m. public input hearing on January 29, 2024, Mark D. Tortorice questioned why sewers don't have meters and why there are charges for wastewater service that hasn't been used. Tr. 141-149, 165-167.

In Port Vue during the 6:00 p.m. public input hearing on January 29, 2024, David Deliman expressed concern with the municipality's sewage being sold in the first place, and with the Commission approving the increase to Port Vue's water and sewer rates. Tr. 295-298. Julian Thomas testified that some people don't understand that they are receiving a sewage bill, but instead that they are paying a bill that covers both water and sewage. Tr. 299-309. Joseph Ingram questioned why customers are asked to pay for pipelines outside of their property. Tr. 330-331. Patrick Loera testified that the Commission awarded more than PAWC asked for in the previous base rate case, which the Commission should not have done. Tr. 348-351. Donna Priselac questioned why sewage isn't metered like water. Tr. 352-354. Deborah Thomas testified that she shouldn't pay for sewage she doesn't use, and that sewage should be metered. Tr. 355-356. Daniel Negley testified that PAWC relined every sewer line in Port Vue, but that it wasn't absolutely necessary. Mr. Negley also asserted that PAWC should figure out the sewage actually used. Tr. 357-362.

In Scranton during the 1:00 p.m. public input hearing on January 30, 2024, Max Conway, Mayor of Dunmore, testified that there is a lack of clarity regarding the need for such significant rate hikes, and when PAWC purchased the Scranton wastewater system in 2016 they promised minimal rate hikes over a 10-year period which they have not honored. Tr. 431-444. Christopher Paone, Borough Manager of Blakely, testified that PAWC's activities repairing leaks on the Borough's roads cause a hardship to the municipality. Tr. 444-448. Larry Milliken testified that he was concerned that PAWC will reallocate their revenues between the two divisions without oversight or approval. Tr. 463-473. Thom Welby testified that he was paying more for wastewater than water. Tr. 473-479. David Phaneuf testified that water company customers shouldn't have to pay wastewater costs. Olivia Jackson questioned PAWC's wastewater calculations, stating "water in is not always water out." Tr. 509-513. Jahan Tabatbaie questioned why extra revenue leads to PAWC purchasing other water and/or wastewater systems. Tr. 517-521. Victoria Hannevig advocated returning to a seigniorage system. Tr. 521-527. James McDermott testified that he was billed for 34 days when he wasn't home for 7 of those days. Tr. 528-530. Richard Brill asserted that PAWC manipulated his bill by issuing bills for varying numbers of days, or issued identical bills for two billing periods, which he asserts is questionable. Tr. 534-537. David Dobrzyn testified that his water bill is being used to subsidize sewer systems and he gets nothing out of it. Tr. 547-550.

In Scranton during the 6:00 p.m. public input hearing on January 30, 2024, Moosic Borough City Council member Jane Sterling testified that PAWC's base rate filing will negatively impact the environment as people may feel that saving water is not worth it if it doesn't decrease their high water bills. Tr. 617-620. Paul Miller testified that he filled his pool up and had to pay for sewage service he didn't use as a result. Tr. 652-655. Doris Koloski expressed concern with PAWC's communications when they are doing work in her area. Tr. 676-681, 758-760. Marie Schumacher testified that people use water to clean, and if they have to cut back, that could create health issues. Tr. 681-683. Elaine Sporko testified that PAWC does not provide compensation when water is off or unusable. Tr. 684-690, 761-762. Frank

Serafini testified that he pays for sewage service for water where the water doesn't go into the sewer. Tr. 691-698. Linda Bonczkiewicz testified that PAWC shouldn't expect people to pay for repairs for other people. Tr. 700-703. Eva Siarniak testified that no credit is given for outages. Tr. 715-719. Stephen Planchock questioned the existence of the DSIC along with the proposed rate increase. Tr. 721-725. Thomas Coyne questioned why PAWC is replacing miles of pipes and asserted that PAWC are only doing small sections to repair a breach while leaving decaying pipes. Eli Verchuck agreed with Marie Schumacher's health concerns. Tr. 731-734. David Bergerhoff testified that the Commission needs to do its job and that he was blindsided by the last increase. Tr. 735-737. George Young testified that the Commission is either on the people's side of the corporatists' side. Tr. 754-758.

In Exeter Township during the 1:00 p.m. public input hearing on January 31, 2024, State Senator Judy Schwank testified that the ripple effects of Act 12 have been felt across the Commonwealth, and a wastewater decrease is masked by stipulations and alternative ratemaking practices. Tr. 788-797. Amanda Johnsen testified that she is charged for wastewater whether or not water goes down the drain. Tr. 798-806. Keith Sauer questioned why PAWC hasn't tapped into the $55 billion allocated to safe drinking water through the bipartisan infrastructure bill. Tr. 820-826. Ron Foy testified that Act 12 allows PAWC to buy up small water companies and then charge all of us for it, and that decoupling is legalized price fixing. Tr. 827-832. Dorothy Pfeffer questioned why PAWC can't meter what goes in the sewer. Tr. 852-856. Christopher Cappuccitti testified that PAWC is not ethical in that they get paid for services they don't provide (water going into the sewer), customers should be permitted to install a "deduct meter," and Act 12 is horrible legislation. Tr. 857-862. Sherri High testified that there is no leeway in summer months for customers that have a pool, or cars being washed at home where the water doesn't go to the sewer. Tr. 862-865. Fiona Reiter questioned what improvements PAWC has done to the sewer. Tr. 866-868. Sheila Jones testified that there are hidden costs associated with water service, i.e., water that doesn't go into the sewer. Tr. 869-874. Michael Datko testified against cross-subsidization of water infrastructure costs across Pennsylvania and Act 12. Tr. 880-884. Michael Knoll questioned PAWC's commitments to keeping rates for Exeter Township customers the same. Tr. 897-901. Ruth Benderoth testified that she would prefer being charged for a sewer meter, that she didn't think water customers should be held responsible for sewage costs. Ms. Benderoth also testified against Act 12 and that requests to uncouple sewage and water billing be denied. Tr. 913-917, 970-974. Steve Rimby testified that Exeter Township should never have sold the sewage system, that customers should not pay for improvement in other water or sewer facilities in other areas, and rates shouldn't go up if other are delinquent on their account. Charles Bauman testified that he only has sewer, and he is billed on every drop that comes out of his well. Tr. 930-934. Leroy Reinert testified that he is paying for something that he is not receiving, i.e., unmetered sewer service. Tr. 941-943. Shawn Schower criticized revenue decoupling, stating that if he does conserve, he could end up paying more. Tr. 950-955. Sean Hollis testified that Act 12 is a disgrace. Tr. 962-965. Sharon Winter objected to the revenue decoupling proposal because people who conserve will end up being penalized. Tr. 966-969.

In Exeter Township during the 6:00 p.m. public input hearing on January 31, 2024, State Senator Judy Schwank testified that revenue decoupling hurts those who try to conserve and that the ECIC allows PAWC to offset the cost of environmental compliance projects onto the consumer. Tr. 1004-1009. Cindy Murphy testified that billing wastewater off water usage is not appropriate. Tr. 1028-1033. Patricia Finley criticized revenue decoupling and the ECIC. Tr. 1034-1041. Eva Ross testified that PAWC requests rate increases to buy wastewater systems and then compensate executives, and that the revenue decoupling mechanism penalizes customers for saving water. Tr. 1041-1047. Scott Colquhon testified that PAWC bills for water not going back into the wastewater system. Tr. 1055-1060. Jeffrey Greene testified that executive salaries are too high. Tr. 1060-1062. William Clark testified that he is paying PAWC so PAWC can buy other customers. Tr. 1070-1076. Gerald Erdman testified that Act 12 needs to be modified. Tr. 1081-1086. Andrew Kingsbury testified that not all water used is sewage, and that PAWC pricing is only justified when subsidizing their existing customer base or to further expansion and acquisitions. Tr. 1096-1101. Matthew Heligen testified that PAWC should put a meter on outgoing water. Tr. 1102-1107.

During the 1:00 p.m. telephonic public input hearing on February 5, 2024, Richard D'Angelo stated that he should not have to pay sewage treatment for other cities. Tr. 1161-1165. Leroy Watters testified that PAWC doesn't do anything to protect the resource they draw from, i.e., the Schuylkill River. Tr. 1180-1186. Timothy Crellman testified that he is a water only customer and objects to subsidizing the wastewater system. Tr. 1250-1255. Kendra Robinson expressed concern that PAWC is profiting off water. Tr. 1267-1277.

During the 6:00 p.m. telephonic public input hearing on February 5, 2024, Raymond Sever testified that people who are only water customers shouldn't bear the burden of wastewater service. Tr. 1348-1351. Jeronimo Hernandez testified that as long as PAWC has to report quarterly earnings and appease shareholders fees and usage rates will continue to increase. Tr. 1369-1378.

In Harrisburg during the 1:00 p.m. public input hearing on February 6, 2024, Michael Langan testified that he doesn't want rates he pays to go towards the various programs PAWC sponsors. Tr. 1538-1548.

In Harrisburg during the 6:00 p.m. public input hearing on February 6, 2024, Gary Iorfido testified that water customers shouldn't be forced to pay wastewater costs. Tr. 1585-1593.

During the 1:00 p.m. telephonic public input hearing on February 7, 2024, Harry Liquore testified that since he doesn't get wastewater, he shouldn't have to pay for wastewater. Tr. 1660-1673. Charles Wilson criticized the sale of the Exeter Township wastewater system and Act 12. Tr. 1696-1703. Tacy Rutherford testified against the revenue decoupling mechanism. Tr. 1704-1714.

During the 6:00 p.m. telephonic public input hearing on February 7, 2024, State Representative Christina Sappey testified about actions taken to correct problems created by Act 12. State Senator Katie Muth criticized the ECIC. Tr. 1791-1797. Shaun Keperling testified that he's not allowed to install a deduct meter, so water used outside the home won't be counted for wastewater. Tr. 1799-1812. Phil Choff testified that PAWC needs to extend its main lines to people who desperately need water. Tr. 1839-1843. Keith Sauer testified that the ECIC is flawed, and customers should not have to pay for PAWC spending in another area. Tr. 1843-

1855. Carla Seidel testified that PAWC has not applied for federal infrastructure funds. Tr. 1873-1880.

V. LEGAL STANDARD/BURDEN OF PROOF

Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301, 1304. PAWC bears the burden of proof to establish the justness and reasonableness of every element of its rate increase request. 66 Pa.C.S. § 315(a); *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00038805 (Opinion and Order entered Aug. 5, 2004). However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims made in its filing that no other party has questioned. As the Commonwealth Court has explained:

> While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n, 570 A.2d 149, 153 (Pa. Cmwlth. 1990).

Although the ultimate burden of proof does not shift from the utility seeking a rate increase, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, Docket No. R-00891364 (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Tel. Co.*, Docket No. R-00901666 (Opinion and Order entered Jan. 31, 1991). Purely speculative assumptions are insufficient. *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.*, 85 Pa.P.U.C. 306 (Sept. 27, 1995).

Further, a party that raises an issue that is not included in a public utility's general rate case filing bears the burden of proof. *Pa. Pub. Util. Comm'n v. Metro. Edison Co.*, Docket No. R-00061366 (Opinion and Order entered Jan. 11, 2007). The proponent of a rule or order bears the burden of proof pursuant to Section 332(a) of the Public Utility Code, which provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. 66 Pa.C.S. § 332(a). It is axiomatic that "[a] litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible." *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n,* 578 A.2d 600, 602 (Pa. Cmwlth. 1990) (*Lansberry*). The preponderance of the evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 732 A.2d 1167 (Pa. 1999).

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa. Cmwlth. 2008) (*citing* 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n,* 942 A.2d 274 (Pa. Cmwlth. 2008). Substantial evidence must be "more than a scintilla and must do more than create a suspicion of the existence of the fact to be established." *Kyu Son Yi v. State Bd. of Vet. Med*., 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted). However, the "presence of conflicting evidence in the record does not mean that substantial evidence is lacking." *Allied Mech. & Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

If the complainant has established a *prima facie* case, the burden of persuasion shifts to the utility to rebut with evidence that is at a minimum co-equal. *Waldron v. Phila. Elec. Co.*, Docket No. C-77100047 (Order entered Mar. 19, 1980). If the utility presents a sufficient rebuttal, the burden of persuasion then shifts back to the complainant to rebut the utility's evidence by a preponderance of the evidence. *Hurley v. Hurley*, 754 A.2d 1283 (Pa. Super. 2000) However, the burden of proof remains on the party seeking affirmative relief with the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

The Commission is not required to consider expressly and at length each contention and authority brought forth by each party to the proceeding. *Univ. of Pa. v. Pa. Pub.*

Util. Comm'n., 485 A.2d 1217 (Pa. Cmwlth. 1984). "A voluminous record does not create, by its bulk alone, a multitude of real issues demanding individual attention . . . ." *Application of Midwestern Fidelity Corp.*, 363 A.2d 892, 902, n.6 (Pa. Cmwlth. 1976). Further, a Commission decision is adequate where, on each of the issues raised, the Commission was merely presented with a choice of actions, each fully developed in the record, and its choice on each issue amounted to an implicit acceptance of one party's thesis and rejection of the other party's contention. *Popowsky v. Pa. Publ. Util. Comm'n*, 706 A.2d 1197 (Pa. 1997).

VI. RATE BASE

A. Utility Plant In Service

1. PAWC's Position

PAWC asserts that the increase in its utility plant-in-service since its last base rate case is the single largest factor driving the Company's need for an increase in revenues. Since the end of the FPFTY in its last case (December 31, 2023), through the end of the FPFTY in this case (June 30, 2025), PAWC states it will have invested over $1 billion in new or replacement plant, and the overwhelming portion of this investment is in source of supply, treatment, distribution and collection assets.[6] PAWC asserts that part of this investment is also being used to improve service to small and troubled water and wastewater systems that PAWC has acquired in furtherance of the Commission's policy that larger, viable water and wastewater companies acquire small, troubled systems and make the necessary improvement to provide safe and reliable service.[7] To address these diverse capital needs, PAWC states it must raise substantial amounts of debt and equity and, in the process, demonstrate its ability to provide a reasonable

[6] PAWC St. 1, p. 8; PAWC St. 3, pp. 9-11.

[7] PAWC St. 1, p. 8.

return in order to convince investors to commit their funds to the Company.[8] PAWC MB at 11-12.

PAWC submits that its requested revenue requirement properly includes the AWC, BASA, Farmington and Sadsbury acquisitions that Company witness Abruzzo testified are expected to close before the end of the FPFTY. PAWC argues there is no reason to treat an acquisition any differently than any other plant that the utility places in service during the FPFTY.[9] In fact, PAWC avers, in April 2020, PAWC filed a rate case that included the not-yet-completed acquisitions of systems owned by the Borough of Kane Authority,[10] the Winola Water Company[11] and the Delaware Sewer Company.[12] The PUC allowed all of these acquisitions to be included in PAWC's rates.[13] Similarly, in April 2022, PAWC filed a rate case that included the pending acquisitions of systems owned by the York City Sewer Authority,[14] Upper

[8] *Id.*

[9] *See* 66 Pa.C.S. § 315(e); *Use of Fully Projected Future Test Year, 52 Pa. Code Chapter 53.51-53.56a*, Docket No. L-2012-2317273 (Notice of Proposed Rulemaking Order entered June 17, 2021), p. 8 (citations omitted).

[10] *Application of Pa.-American Water Co., Pursuant to the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1102(a) and 1329, for Approval of the Transfer, by Sale, of the Wastewater Collection and Treatment System of the Borough of Kane Auth.*, Docket No. A-2019-3014248 (Order entered June 18, 2020).

[11] *Pa. Pub. Util. Comm'n v. Winola Water Co.*, Docket No. P-2018-3006216 (Order entered Aug. 6, 2020) (a Section 529 acquisition).

[12] *Investigation Instituted per Section 529 Into Whether the Commission Shall Order a Capable Public Utility to Acquire Delaware Sewer Company*, Docket No. I-2016-2526085 (Opinion and Order entered Mar. 26, 2020).

[13] Tr. 1971.

[14] *Application of Pa.-American Water Co. to Acquire the Wastewater Collection and Treatment System Owned by the York City Sewer Auth.*, Docket No. A-2021-3024681 (Order entered Apr. 14, 2022) (a Section 1329 transaction).

Pottsgrove Township,[15] Foster Township[16] and the Creekside Homeowners Association.[17] The Commission again allowed all of the acquisitions to be included in PAWC's rates.[18] PAWC asserts there is no reason why the Commission should treat the acquisitions in this base rate case any differently than it treated the acquisitions in PAWC's 2020 and 2022 base rate cases. PAWC MB 12-14.

PAWC states that when the Commission enters its order in this proceeding, the Commission should take official notice of the status of the BASA, Sadsbury, Farmington, and AWC acquisition proceedings at that time. If the Commission or a court of competent jurisdiction has entered a final, unappealable order approving any of these acquisitions, the Commission should allow that acquisition to be placed into rates, even if closing has not yet occurred. If a final, unappealable order has been entered by that time, the Commission can be reasonably certain that the transaction will close by the end of the FPFTY. PAWC asserts that no party to this proceeding could identify a single recent transaction in which closing did not occur after the Commission or a court of competent jurisdiction entered a final, unappealable order approving the acquisition. Moreover, Mr. Abruzzo estimated that each of the acquisitions discussed above could be closed within a few weeks following approval.[19] Consequently, PAWC avers that the Commission could be reasonably certain that the transactions would close by the end of the FPFTY. PAWC MB at 14.

PAWC argues that, to date, the Commission has not held that an acquisition must close before the Commission enters its order in a base rate case, and there is no need for the

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15 *Application of Pa.-American Water Co. under Sections 1102 and 1329 of the Pa. Pub. Util. Code, to Acquire the Wastewater Collection and Conveyance System of Upper Pottsgrove Twp.*, Docket No. A-2020-3021460 (Order entered Sept. 15, 2021).

16 *Application of Pa.-American Water Co. to Acquire Certain Wastewater Assets from Foster Twp.*, Docket No. A-2021-3028676 (Order entered July 14, 2022) (a Section 1102 acquisition).

17 *Application of Pa.-American Water Co. to Acquire Certain Water System Assets from Creekside Homeowners Ass'n*, Docket No. A-2022-3031020 (Order entered May 18, 2023) (a Section 1102 acquisition).

18 Tr. 1971.

19 PAWC St. 6-R, pp. 3-5.

Commission to do so now. Such a holding would be bad public policy because it would create a lag in recovery on and of legitimate investment by utilities, which in turn creates a disincentive for public utilities to acquire systems (especially small or troubled systems like AWC).[20] It could also lead to more frequent rate cases for utilities to reduce this lag in recovery. Excluding these systems in this case would be one factor that PAWC considers in determining when it will file another rate case.[21] PAWC MB at 15.

In its Reply Brief, PAWC confirmed that in oral rejoinder offered at the evidentiary hearings, PAWC agreed to remove the Brentwood system from its rate claim.[22] PAWC states that its remaining disputes with I&E, the OSBA, and the OCA regarding the Acquisitions concerns timing. PAWC states that as explained in its Main Brief, including assets in a rate case is appropriate if those assets will be used and useful by the end of the FPFTY.[23] The Commission should not find that closing on an acquisition must occur prior to the closing of the record in a rate case. Instead, when the Commission enters its final order in this proceeding, it should review the status of the Acquisition proceedings and determine whether closing is reasonably certain to occur before the end of the FPFTY. PAWC RB at 10-11.

In its Main Brief, the OCA discusses several examples of acquisitions that did not close after the Commission issued an order approving the acquisition. The OCA also argues that most acquisition agreements allow parties to terminate the transaction before closing.[24] PAWC avers that these arguments, however, miss the mark. The record contains no examples of an acquisition in which the buyer and seller pursued an acquisition to the point of achieving a final unappealable Commission or Court order approving the transaction, and then walked away from

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[20] Tr. 1993.

[21] PAWC St. 6-R, p. 13.

[22] Tr. 1970. In its Reply Brief, PAWC referred to the remaining acquisitions (BASA, Sadsbury, AWC and Farmington) as the "Acquisitions."

[23] *See also Use of Fully Projected Future Test Year, 52 Pa. Code Chapter 53.51-53.56a*, Docket No. L-2012-2317273 (Notice of Proposed Rulemaking Order entered June 17, 2021), p. 8.

[24] OCA MB at 27-28.

the deal and failed to close on the transaction. PAWC states that additionally, Mr. Abruzzo testified that PAWC and all of the sellers in the acquisitions listed above continue to be committed to the transaction.[25] PAWC RB at 12.

PAWC states that if, however, the Commission agrees with OCA, I&E and OSBA with respect to the certainty of closing the BASA acquisition, PAWC's proposed two-step rate increase structure addresses this concern.[26] Step 1 rates would become effective on August 7, 2024 (the end of the normal suspension period in this case). Step 2 rates would become effective on one day's notice, no earlier than August 7, 2024, and only after the Company has certified to the Commission that it closed on the BASA acquisition. If, for any reason, the BASA acquisition does not close, Step 2 rates would never become effective. PAWC states that this step methodology ensures that customers are protected by not allowing any rate changes to occur until the Company has closed on the purchase of the BASA system. PAWC RB at 12-13.

2. I&E's Position

I&E states that PAWC has included in this filing various water and wastewater acquisitions that are currently pending before the Commission; however, it does not yet have Commission approval to acquire these systems and, as a result, it does not currently own them. These systems include the Bulter Area Sewer Authority wastewater system (BASA), Brentwood wastewater system, the Farmington Township (Farmington) water and wastewater system, the Sadsbury wastewater system, and the Audubon Water Company (AWC) water system. I&E recommends that all costs be denied with respect to the remaining systems identified above. I&E states that PAWC has the burden to demonstrate that the property is actually used and useful in the public service.[27] The Brentwood, Farmington, Sadsbury and Audubon acquisitions have not closed as they have not been approved by this Commission. Property that is not owned by PAWC is not used and useful in service to its customers. Therefore, PAWC has not met its

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[25] Tr. 1992.

[26] PAWC St. 1-R, p. 4; Tr. 1970.

[27] *Bell Tel. Co. v. Pa. Pub. Util. Comm'n*, 408 A.2d 917, 925 (Pa. Cmwlth. 1979).

burden of proving that ratemaking recovery is in the public interest. I&E MB at 10-11.

I&E is recommending a total fair value for PAWC's water rate base of $4,688,960,669.[28] In determining the appropriate water rates base, I&E disagrees with PAWC proposal to include the Farmington and AWC water distribution systems as the acquisitions have not yet been approved by the Commission. I&E argues that requesting rate recovery in this proceeding is improper because there is no way to know whether and when those transactions will be approved. The public interest requires that ratepayers pay a return of and on assets that are used and useful in the public service. If PAWC does not yet own the assets, they are not used and useful in the public service to PAWC ratepayers. I&E asserts that treating potential acquisitions as a fait accompli regardless of the status of the actual acquisition to begin recovering costs as early as possible is not in the public interest and is harmful to ratepayers.[29] I&E MB at 11-12.

I&E argues that including these systems in rates now is inappropriate because the Commission might require a change in the purchase price or deny the proposed transaction in its entirety. Therefore, PAWC ratepayers would pay for a return of and a return on the Farmington and AWC assets and expenses that could be inaccurate for the entire period between the implementation of rates in this case and the implementation of rates in the next subsequent case. I&E states that it is unreasonable and contrary to sound ratemaking principles to allow rate recovery for acquisitions where the acquisition dockets are currently pending, and no closing dates have been established. I&E MB at 12-13.

Further, I&E argues, prematurely including these pending acquisitions in rates severely limits the effectiveness of any public input hearings as it essentially preapproves the request and removes the opportunity for customers to make their voices heard regarding the potential sale of their water or wastewater utility. I&E asserts that no incentive exists for a customer to speak up regarding an acquisition if the Commission has already allowed it to be

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[28] Appendix A, I&E Table I - Water Operations, column F, line 22.

[29] I&E St. 4, pp. 5-6.

included for rate recovery before issuance of an order approving PAWC's ownership. This stands directly opposed to the public interest. I&E MB at 13.

I&E witness Kubas recommends that the rate base, expenses, taxes, revenue, and corresponding revenue shortfall from the Brentwood system be excluded from this case.[30] In addition, Mr. Kubas recommended that the rate base, expenses, taxes, and revenue from the BASA system be excluded from this case.[31] His recommendation is based largely on the fact that PAWC does not own the system, and the transaction closing date, if any, is unknown.[32] For the same reason, Mr. Kubas recommends the rate base, expenses, taxes, and revenue from the Farmington wastewater system[33] and Sadsbury wastewater system[34] be excluded from this case. I&E MB at 14-15.

In its Reply Brief, I&E states that PAWC has characterized the closing of these systems as "likely" to occur before the end of the FPFTY. In its Main Brief, the Company says that there is no reason to treat these systems any differently than any plant the utility places in service during the FPFTY. I&E submits, however, that there are good reasons to treat these systems differently than plant place in service in the FPFTY. First, and foremost, there is no law that allows them to place these systems they do not own into rate base, while current law does allow for the inclusion in rate base of plants that will be placed in service in the FPFTY. I&E further avers that the Company's argument ignores a glaring difference. This plant to be placed in service in the FPFTY that is being discussed is all related to systems that it already owns. I&E RB at 2-3.

I&E asserts that while it is true that PAWC was allowed to include pending acquisitions in its 2020 and 2022 base rate cases, PAWC has failed to include what separates

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30 I&E St. 3, p. 4.

31 I&E St. 3, p. 6.

32 *Id*.

33 *Id at* 7.

34 *Id at* 8.

those acquisitions from the ones in the instant case. Regarding PAWC's 2020 base rate case, the case was filed on or about March 31, 2020. Other parties' direct testimony was due September 2, 2020. The Recommended Decision in the Borough of Kane proceeding, which approved the unopposed settlement, was issued on May 7, 2020, and the Commission's final Order was adopted on June 18, 2020.[35] This was almost three months before the other parties direct was due and the appeal period, which was unlikely to be used because the Commission approved an unopposed settlement, had expired. On August 6, 2020, the Commission entered an Order approving an unopposed settlement by which PAWC, which was already the receiver of Winola Water, would purchase the system.[36] This was approximately one month before the other parties direct was due in the base rate case, and being an approved unopposed settlement was unlikely to be appealed. I&E states that Delaware Sewer was another Section 529 acquisition and once again, this acquisition was the product of an unopposed settlement which was approved by the Commission. The Commission's final order in the Delaware Sewer acquisition was entered June 13, 2019.[37] I&E avers that the above-referenced acquisitions were clearly different than the acquisitions included in the instant filing. Further, there was reasonable degree of certainty that they would be closed within the FPFTY that we do not have here. I&E RB at 3-4.

I&E states that PAWC's 2022 base rate case was filed on March 20, 2022.[38] An Order approving the settlement in that proceeding was entered on December 8, 2022. In that proceeding, non-company direct testimony was due July 29, 2022. In that proceeding, the York acquisition[39] was included in rate base. The unanimous settlement of all issues approving the

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[35] *App. of Pa. American Water for Approval of the Transfer, by Sale, of the Wastewater Collection and Treatment System of the Borough of Kane Auth.*, Docket No. A-2019-3014248 (Order entered June 18, 2020).

[36] *Pa. Public Util. Comm'n v. Winola Water Co.*, Docket No. P-2018-3006216, pp. 1-2, (Order entered Aug. 6, 2020).

[37] *Investigation Instituted per Section 529 Into Whether the Commission Shall Order a Capable Public Utility to Acquire Delaware Sewer Co.*, Docket No. I-2016-2526085 (Order entered June 13, 2019).

[38] *Pa. Pub. Util. Comm'n v. Pa. American Water Co.*, Docket No. R-2022-3031672 (Order entered Dec. 8, 2022).

[39] *App. of Pa. American Water Co. to Acquire the York City Sewer Auth.*, Docket No. A-2021-3024681 (Order entered Apr. 14, 2022).

York Sewer Authority acquisition was approved in an Order entered April 14, 2022. I&E avers that like most of the acquisitions above, it was unlikely that this Order would be appealed since all parties to the proceeding joined in the approved settlement. Regarding the Upper Pottsgrove Acquisitions, the Commission's Order approving the non-Unanimous settlement was enter on September 15, 2021.[40] On June 30, 2022, PAWC closed on the acquisition. The was approximately a month before the parties direct testimony was due in the 2022 base rate case. I&E RB at 5.

I&E states that PAWC's acquisition of the Creekside Development involved the acquisition of a system that at the time served 49 residential customers, and when the subdivision was fully developed, would serve approximately 102 single-family homes and 17 townhomes.[41] The Commission's Bureau of Technical Utility Services (TUS) reviewed the filing, and no other parties were involved. I&E states that in this case, although the opportunity was available, no parties (not I&E, OCA or OSBA, among others) were involved in this proceeding seemingly suggesting that there was no large opposition or major concern with this acquisition. I&E avers that furthermore, of all the acquisitions discussed, this was by far the smallest and would have the least impact on PAWC's customers and rate base. I&E RB at 5-6.

I&E concludes that a quick review of the acquisitions involved shows that all those that were allowed to be included in rate base were vastly different than the acquisitions included in the instant base rate case. The prior acquisitions could all reasonably be assumed to be closed at some point within the FPFTY, whereas the various acquisitions included in this base rate case have generally either barely started or are working through various different appeal processes. Therefore, while in some instances, PAWC has been allowed to include in rate base some systems that it does not outright own at the filing of the case, it is clear that in this case, it would be inappropriate to include systems that PAWC cannot say with any level of certainty it will own by the end of the FPFTY. I&E RB at 6.

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[40] *App. of Pa. American Water to Acquire Upper Pottsgrove Twp.*, Docket No. A-2020-3021460 (Order entered Sept. 15, 2021)

[41] *App. of Pa. American Water to Acquire the Water System Assets from Creekside Homeowners Assoc*, Docket No. A-2022-3031020, p. 2 (Order entered May 18, 2023).

3. OCA's Position

The OCA states that PAWC's revenue requirement as presented in PAWC's Exhibit 3-A reflects in "utility plant in service" in the FPFTY a ratemaking rate base claim for each of the six not yet completed acquisitions.[42] The OCA argues that the Commission should deny PAWC's "utility plant in service" claims for property PAWC aspires to own but does not yet own because PAWC has failed to demonstrate by a preponderance of evidence that there is reasonable certainty that the property will be acquired and used and useful by PAWC by the end of the FPFTY. The six aspirational acquisitions include: (1) Audubon water, (2) Farmington water, (3) Farmington wastewater, (4) Sadsbury wastewater, (5) BASA wastewater (Section 1329), and (6) Brentwood wastewater (Section 1329).[43] OCA MB at 22.

The OCA avers that what constitutes "used and useful property" is committed to the wide discretion of the Commission, and if the Commission reasonably finds that the property will not be used and useful in serving the public, it may make adjustments to exclude the value of the property from rate base and disallow the utility's return on that property.[44] The adjustments must be supported with a reasonable degree of specificity in findings and reasoning.[45] OCA MB at 22.

The OCA asserts that, to determine whether property will be "used and useful" in the FPFTY, a utility must sufficiently demonstrate by the close of the record that the utility property is reasonably certain to be used and useful in the FPFTY.[46] In *UGI 2018*, the

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42 OCA St. 2SR, p. 24.

43 OCA St. 2, p. 18.

44 *Pa. Power & Light Co. v. Pa. Pub. Util. Comm'n*, 516 A.2d 426, 430 (Pa. Cmwlth. 1985) (citations omitted); *see also UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923, 929 (Pa. Cmwlth. 1980).

45 *Phila. Suburban Water Co. v. Pa. Pub. Util. Comm'n*, 394 A.2d 1063, 1066-67 (Pa. Cmwlth. 1978).

46 *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Elec. Div.*, Docket No. R-2017-2640058, (Opinion and Order entered Oct. 25, 2018) (*UGI 2018*) at 27-31.

Commission agreed with the ALJ's recommendation to reject the utility's $17.3 million utility plant in service claim and related expenses associated with the planned construction of a new operations center by the end of the FPFTY because: (1) the utility did not demonstrate that its planned operations center would be in operation by the end of the FPFTY; and (2) there was no "reasonable certainty that it [would] be in operation in the FPFTY."[47] In affirming the Commission's decision in *UGI 2018*, the Commonwealth Court in *McCloskey 2020* observed that the Commission properly excluded the proposed operations center and reduced the utility's rate base by over $17.3 million "on the basis that there was insufficient evidence to support that it would be in service during the FPFTY."[48] OCA MB at 22-23.

The OCA argues that here, like the property excluded in *UGI 2018,* the Commission should exclude PAWC's utility plant in service claims related to the six proposed acquisitions because it has not affirmatively demonstrated by a preponderance of evidence that (1) the claimed plant will be acquired and used and useful by the end of the FPFTY but rather PAWC has merely demonstrated that the acquisitions are in preliminary planning and litigation stages; and (2) there is reasonable certainty that the property that PAWC aspires to own will actually be acquired and used and useful by the end of the FPFTY.[49] OCA MB at 23.

OCA witness Ralph Smith offered two objective and bright line criteria to determine the certainty of potential acquisitions in the FPFTY: that,

> [B]y the close of the record in this base rate proceeding, (1) the Commission has issued a final, unappealable order approving the transaction, and (2) there is no uncertainty as to whether the closing will occur.[50]

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47 *UGI 2018* at 27-31 (citing R.D. at 22-24), 79.

48 *McCloskey v. Pa. PUC*, 225 A.3d 192 (Pa. Cmwlth. 2020) (*McCloskey 2020*) at 207, n.9.

49 *UGI 2018* at 27-31; 66 Pa.C.S. §§ 315(a), (e); *Pa. PUC v. Pa. American Water Co*., 2004 Pa. PUC LEXIS 29 at *16-18 (Order Jan. 29, 2004) (*PAWC 2004*) at *16-18*; Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983) (*Burleson*) at 1236; *Lansberry* at 602; PAWC St. 6, pp. 3-22; PAWC St. 6R, pp. 2-18; OCA St. 2, pp. 18-46; OCA St. 2SR, pp. 4-21.

50 OCA St. 2, p. 19; OCA St. 2SR, pp. 5-6.

The OCA asserts that including the aspirational acquisitions in the FPFTY for purposes of establishing a revenue requirement is fundamentally different from including capital expenditures for systems that are already owned by a utility. This is the case because (1) the assets proposed to be acquired are not owned by PAWC, and (2) the Commission has not yet ruled on whether PAWC can own them by granting Certificate of Public Convenience (CPC) in accordance with Sections 1102-1103 of the Code.[51] OCA MB at 23-24.

The OCA states that to include the aspirational acquisitions in rate base, the Commission would have to assume that (1) the acquisitions will at some point inevitably be determined by the Commission to meet the requirements of Code Sections 1102-1103, and Section 1329 (for applicable acquisitions), based on the applications as filed, regardless of the positions of parties in the separate application dockets, and (2) none of the things that could prevent the acquisitions from closing by the end of the FPFTY will occur.[52] The OCA states that while PAWC may hope this to be the reality, PAWC has not demonstrated this in the record, and it is not entitled to the presumption, that its desire to acquire a system will mean that the acquisition will satisfy the legal requirements of the Code and all impediments to closing will be resolved. Moreover, reliance on such assumptions is inappropriate and would improperly signal to the general public, to the system seller, and to the management and shareholders of public utility companies that the Commission is expected in the future to adjudicate the utility acquisition in favor of the utility (*i.e.*, effectively "pre-judging" the outcome of the acquisition application in a base rate proceeding).[53] OCA MB at 24.

The OCA asserts that history teaches that it is speculative to predict whether the terms of the transaction will be approved by the Commission or modified on appeal, which can affect the ratemaking and tariff assumptions in the FPFTY.[54] Mr. Smith gave the real examples

51 OCA St. 1SR, p. 6; 66 Pa.C.S. §§ 1102-1103.

52 OCA St. 1SR, p. 7.

53 OCA St. 2, p. 21.

54 OCA St. 2SR, pp. 8-9.

of Delaware County Regional Water Quality Control Authority (DELCORA) (A-2019-3015173), City of Beaver Falls (A-2024-3033138), and Willistown Township (A-2021-3027268), as real examples of transactions that encountered pitfalls, delays, or termination.[55] OCA MB at 24-25.

The OCA states that one need only look at the proposed Brentwood acquisition to see the unreasonableness of the Company's position to include utility plant in service in the FPFTY based on uncertain acquisitions. In rebuttal, submitted one day before the February 22, 2024 Public Meeting, Mr. Abruzzo painted a picture of a straight path to final approval of the Brentwood acquisition and the Company's closing of the transaction by the close of the FPFTY.[56] PAWC witness Everette similarly testified that the BASA and Brentwood acquisitions are likely to close prior to the end of the FPFTY.[57] These predictions were upended when the Commission affirmed the R.D. and denied the acquisition by notational vote on February 22, 2024.[58] This outcome demonstrates that *<u>what PAWC hopes or says will happen in the future, does not make it so</u>*. OCA MB at 25-26 (emphasis in original).

In fact, the OCA states that *<u>the only thing that Mr. Abruzzo did predict was the outcome that PAWC desired</u>*: that is, he predicted that the Commission would approve the Brentwood transaction, and if the Commission's decision were to be appealed, he predicted that the Commonwealth Court would approve the Brentwood transaction.[59] The OCA argues that the Brentwood example is the "poster child" for demonstrating that PAWC's aspirational wishes should not and cannot be relied upon as sufficient evidence to overcome the uncertainty related

55 OCA St. 2SR, pp. 11-13.

56 PAWC St. 6R, pp. 2-11.

57 PAWC St. 1R, p. 4.

58 OCA St. 2SR, pp. 8, 18-20.

59 PAWC St. 6R, p. 3.

to the transactions. The OCA avers that the myriad of uncertainties is spelled out in OCA witness Smith's testimony.[60] OCA MB at 26-27 (emphasis in original).

Furthermore, the OCA states that Mr. Abruzzo testified that the close of the record in this proceeding should not be the cut-off point because PAWC can petition to reopen the record in the rate case after the Commission issues an order in the application docket. However, the OCA states that petitioning to reopen a record should not be presumed that it will produce PAWC's desired outcome. Other parties to a base rate case have due process rights, and the outcome may not be the clear path Mr. Abruzzo assumes. Indeed, the OCA avers that in petitioning to reopen the record, PAWC would have to (1) prevail in its petition to reopen the record, and (2) prevail in making its case to the Commission on the merits that the acquisitions should be included in the FPFTY for ratemaking purposes.[61] OCA MB at 27.

Moreover, the OCA asserts that a Commission final order granting CPC authority to PAWC to acquire a system <u>*does not mean*</u> that PAWC and the buyer <u>*must*</u> close the acquisition. Rather, the order granting CPC authority <u>*functions as permission*</u> for the utility to proceed with closing the transaction. This reality is recognized by function of Commission orders which typically require first, the utility to notify the Commission when the closing takes place and second, the Secretary to then issue the CPC evidencing the utility's authority to acquire the assets and serve the customers of the acquired system.[62] Hence, the OCA argues that the existence of a final, unappealable Commission Order is not sufficient alone to determine the likelihood of utility plant being acquired and used and useful in the FPFTY, as the parties still could exercise their rights under the APAs to terminate the transactions. And hence, the purpose of Mr. Smith's second criterion: that there be no uncertainty as to whether the closing will occur.[63] OCA MB at 27-28 (emphasis in original).

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[60] OCA St. 2, pp. 18-46; OCA St. 2SR, pp. 4-21.

[61] OCA St. 1SR, p. 7.

[62] 66 Pa.C.S. §§ 1102, 1103; *See* OCA St. 2SR, p. 11; *Application of Aqua Pa. Wastewater, Inc.,* A-2021-3027268 (Letter re: Termination of APA May 12, 2023).

[63] OCA St. 2SR, p. 12.

In OCA surrebuttal, Mr. Smith rejected PAWC witness Everette's multi-step revenue requirement for two main reasons. First, Step 1 of the proposal allows the proposed acquisitions for Audubon water, Farmington water and wastewater, or Sadsbury wastewater to be included for ratemaking purposes. However, the OCA states that the Commission has not ruled on the merits of these proceedings and PAWC attempts to usurp the Commission's authority by including them in FPFTY rate base and expenses as if it already had the Commission's approval. Second the OCA states that it is not known under what terms or conditions any of these acquisitions would close, or if they will close. The OCA avers this applies to all the pending acquisitions, including BASA, because none of them have a final, unappealable order. For example, BASA could be remanded by an appellate court and conditions or renegotiations could impact ratemaking rate base or result in other costs (transaction and closing costs, for example). But under PAWC's multi-step proposal, rates would increase in Step 2 as claimed in PAWC's filing, with no recognition of those changes.[64] The OCA argues this presents due process concerns because parties present evidence in response to the Company's proposal regarding utility property in an acquisition proceeding only to have to respond to the Company's different proposal about the same utility property in the parallel rate proceeding. The OCA argues that it also has the effect of usurping the Commission's authority to make decisions on legal issues as the Company presents its position in one proceeding (e.g. an acquisition proceeding) only to pull the rug out from under that position in a parallel proceeding (e.g. the base rate case). Additionally, the OCA states that the Company's rebuttal proposal, as modified in rejoinder, would circumvent the procedural due process afforded to parties by PAWC needing to petition to reopen the record.[65] OCA MB at 30-31.

The OCA asserts there are virtually no bounds if PAWC prevails with its arguments. The OCA argues that by PAWC's standards, PAWC would be able to include utility plant in service claims as soon as PAWC signs an APA with a seller.[66] The OCA avers that

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[64] OCA St. 2SR, pp. 16-17.

[65] OCA St. 2SR, p. 18.

[66] OCA St. 2SR, p. 21.

PAWC's approach *abuses the FPFTY as a ratemaking concept* and raises serious legal concerns, including potentially usurping the Commission's statutory authority to render decisions in parallel proceedings regarding the same utility property and potentially violating due process rights of the parties in the parallel acquisition and rate proceedings where PAWC may make different ratemaking claims and tariff requests regarding the pending acquisitions in the separate proceedings. OCA MB at 31 (emphasis in original).

In its Reply Brief, the OCA maintains that PAWC has not met its burden of proving with substantial evidence by the close of the record in this proceeding that the desired-but-not-yet-acquired property will be used and useful by the close of the FPFTY, and therefore the Commission should exclude such property from PAWC's ratemaking rate base claims in the FPFTY.[67] The OCA asserts that PAWC's argument that it was permitted to include desired-but-not-yet-acquired property in its 2020 and 2022 rate cases, "there is no reason why the Commission should treat the acquisitions in this [case] any differently than it treated the acquisitions" in those cases[68] is meritless. Both the 2020 and 2022 cases were resolved by "black-box" settlements, which need not be followed, distinguished, or overruled in the decision to be made by the Commission in this case, as the settlements cannot be used as Commission precedent in this proceeding.[69] OCA RB at 17-18.

The OCA asserts that for PAWC to even refer to those prior decisions in its Main Brief, PAWC breaches its contract with all parties to those settlements and violates the terms of those settlements. The OCA also avers that as black-box settlements, neither the 2020/2022 settlements nor the Commission's Orders approving those settlements addressed the issue of PAWC's 2020 and 2022 ratemaking claims regarding desired-but-not-yet-acquired property. The OCA asserts that furthermore, as a matter of law, a prior rate is *not* res judicata on the

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67 *UGI 2018* at 27-31, *aff'd by McCloskey 2020* at 207, n.9; *Pa. Power & Light Co. v. Pa. Pub. Util. Comm'n*, 516 A.2d 426, 430 (Pa. Cmwlth. 1985); *UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923, 929 (Pa. Cmwlth. 1980); *Phila. Suburban Water Co. v. Pa. Pub. Util. Comm'n*, 394 A.2d 1063, 1066-67 (Pa. Cmwlth. 1978).

68 PAWC MB at 13-14.

69 *See Pa. Pub. Util. Comm'n, v. Pa. Am. Water Co.,* Docket No. R-2020-3019369 at 93-94 (Opinion and Order entered Feb. 25, 2021) .

question of reasonableness.[70] Hence, the Commission's prior approval of the 2020/2022 black-box settlements does not tie its hands in this case on the question of rate base adjustments (or any issue for that matter). The OCA states that additionally, beyond PAWC's bald assertion that the 2020/2022 rate cases included certain acquisitions in rate base, PAWC did not develop the record in this case to explain how the desired-but-not-yet-acquired property claimed in this case is either like or distinguishable from the property claimed in the prior cases (hence, there is no testimony in the record to rely upon for comparisons/contrasts), and PAWC does not cite to any prior reasoning by the Commission in a prior cases that could be applied in this case. OCA RB at 18-19 (emphasis in original).

In its Main Brief, (even though PAWC does not acknowledge *UGI 2018*) PAWC effectively argues that the Commission should distinguish *UGI 2018* by arguing that "the Commission should take official notice of the status of the BASA, Sadsbury, Farmington, and Audubon water acquisition proceedings…."[71] PAWC states that, with the record now closed, if a final, unappealable order gets put into place (after the record close date), "the Commission should allow the acquisition to be placed into rates, even if closing has not yet occurred…[because] the Commission can be reasonably certain that the transaction will close by the end of the FPFTY."[72] The OCA asserts that this argument is absurd and, if adopted, would abandon appropriate and reasonable guardrails to the FPFTY as a ratemaking concept, increase uncertainty in ratemaking, and would run afoul of party litigants' due process rights. OCA RB at 20-24.

The OCA avers that on the issue of regulatory lag, the FPFTY is designed to reduce regulatory lag for utilities; however, for the concept to not be abused, there must be reasonable certainty by the close of the record in the rate case that the property claimed in rate

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70 *U.S. Steel Corp. v. Pa. PUC*, 456 A.2d 686 (Pa. Cmwlth. 1983) at 692.

71 PAWC MB at 14.

72 PAWC MB at 14.

base will be used and useful by the end of the FPFTY.[73] The OCA states that PAWC's assertion that the frequency of its rate cases may increase by the Commission following its *UGI 2018* decision here rings hollow in light of the frequency of PAWC's filings. PAWC uses the DSIC and the FPFTY, and both tools were supposed to reduce rate case frequency; yet this is PAWC's third case in four years. PAWC received rate increases in March 2021, January 2022, and January 2023, even though it was allowed to include desired-but-not-yet-acquired property in the 2020/2022 rate case settlements. The OCA states that PAWC files rate cases when it wants and needs to do so and a decision by the Commission to follow applicable law and precedent will not speed up its decision to do so. OCA RB at 24-25.

The OCA states that finally, as explained in the OCA's Main Brief, given that there is no reasonable certainty that the BASA and Brentwood systems will be acquired and used and useful by the end of the FPFTY, the Commission should exclude PAWC's claim for $18.89 million in rate base additions for improvements to those systems. The reason is simple: a utility cannot add plant to a system it does not own and there is no reasonable certainty that the BASA and Brentwood systems will be acquired and used and useful by the end of the FPFTY.[74] Excluding the $18.89 million in rate base additions reduces PAWC's proposed $1.286 billion amount of plant additions net of retirements through June 30, 2025, to $1.267 billion, an amount that represents planned improvements to PAWC's Water, Wastewater SSS, and CSS Wastewater Operations.[75] OCA RB at 26-27.

4. ALJs' Recommendation

We agree with the positions of I&E and the OCA and recommend that PAWC's rate base exclude utility plant-in-service related to AWC, BASA, Farmington, and Sadsbury.

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73 *UGI 2018* at 27-31.

74 *UGI 2018* at 27-31; 66 Pa.C.S. §§ 315(a), (e); *PAWC 2004* at *16-18*; Burleson* at 1236; *Lansberry* at 602.

75 OCA St. 2SR, pp. 25-27; OCA MB at 32.

Additionally, as PAWC itself has confirmed, the Brentwood acquisition should be removed from Rate Base.[76]

PAWC suggests that Commission establish a standard to include the Acquisitions in Rate Base if they "are reasonably certain to close during the FPFTY."[77] PAWC confirmed the status of the disputed Acquisitions in its Main Brief as follows:[78]

- **BASA**. As of the date of the hearing, this acquisition had been approved by the Commission but was pending in the Commonwealth Court of Pennsylvania ("Commonwealth Court"). Based on the expedited litigation schedule that the Commonwealth Court has established, PAWC anticipates a decision will be rendered in April or May 2024. If that decision is favorable and is not appealed to the Supreme Court of Pennsylvania, PAWC will close on the transaction before the end of the FPFTY. If the decision is appealed to the Supreme Court, it is unlikely that the Supreme Court will accept the case.[79] As previously discussed, PAWC has also proposed Step 2 Rates for the BASA acquisition to ensure that customers do not pay higher rates reflecting the PUC-approved BASA ratemaking rate base until that transaction closes.

- **Sadsbury**. A unanimous settlement was submitted to the presiding ALJ on February 21, 2024. PAWC believes it is very likely that the Commission will approve the unanimous settlement this summer. If so, the transaction will close well before the end of the FPFTY.[80]

- **Farmington**. The parties are continuing to engage in informal discovery and settlement discussions. A status conference was held on March 13, 2024.[81]

- **AWC**. PAWC and opposing parties have submitted direct testimony.[82]

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[76] PAWC RB at 10.

[77] PAWC RB at 12.

[78] PAWC MB at 12-13.

[79] PAWC St. 6-R, pp. 2-3.

[80] *Id.* at 4.

[81] *Id.*

[82] *Id.* at 4-5.

We agree with I&E and the OCA that it would be premature to include these Acquisitions in PAWC's FPFTY rate base. With the exception of BASA, which is discussed below, the Acquisition dockets are currently pending before the Commission, and Commission action could necessitate a change to depreciated original cost or any acquisition adjustment for the difference between purchase price and depreciated original cost, or may deny the proposed transaction in its entirety.[83] If these Acquisitions are included in rate base in this proceeding without certainty of full Commission approval, PAWC ratepayers may pay for inaccurate costs in rates going forward as approved in this case.[84]

PAWC avers that the Commission allowed pending acquisitions in PAWC's 2020 and 2022 rate cases (i.e., Borough of Kane Authority, Winola Water Company, and the Delaware Sewer Company in 2020; York City Sewer Authority, Upper Pottsgrove Township, Foster Township, and the Creekside Homeowners Association in 2022) and therefore the Commission should likewise allow pending acquisitions into rate base in this case.[85]

We find that I&E and the OCA adequately distinguished the disputed Acquisitions from the pending acquisitions that were allowed in PAWC's 2020 and 2022 base rate cases. First, I&E detailed how the Commission had entered orders approving the acquisitions for the Borough of Kane Authority, Winola Water Company, Delaware Sewer Company, York City Sewer Company, and Upper Pottsgrove Township before the record had closed in the relevant rate cases.[86] Although not included in I&E's Reply Brief, the Commission similarly approved the Foster Township acquisition by an order entered on July 14, 2022, which was before the record closed in PAWC's 2022 base rate proceeding. In this proceeding, as shown by PAWC's status descriptions above, the Commission has not approved any of the disputed Acquisitions, except BASA. The Commission did not approve the Creekside Development acquisition until May 2023, which was after 2022 base rate case record had closed.

83 *See* I&E MB at 12-13; OCA RB at 22-23.

84 *See* I&E MB at 12-13.

85 PAWC MB at 13-14.

86 I&E RB at 3-6.

However, we agree with I&E that this case is distinguishable as a non-litigated proceeding involving only 49 residential customers.[87] We also agree with the OCA that the acquisitions included in the 2020 and 2022 rate cases are distinguishable because acquisitions in those proceeding were in the context of cases where there were settlements.[88]

Although the Commission approved the BASA acquisition, we do not believe that PAWC met its burden of proving that BASA should be included in rate base in the FPFTY. Although PAWC expects the transaction to close before the end of the FPFTY, there is no certainty that it will. As PAWC's own status update above provides, first the Commonwealth Court must find in its favor, then, if the case is appealed, it must be seen whether the Pennsylvania Supreme Court will accept the case. As the OCA persuasively asserts, PAWC's predictions for the outcome of its acquisitions may not always come true.[89] In fact, OCA noted that Aqua Pennsylvania Wastewater, Inc. (APW) had a Commission Order approving its acquisition of Willistown Township's wastewater system assets, and while the Order was on appeal, APW filed a letter notifying the Commission that Willistown Township had exercised the seller's rights to terminate the transaction and that the transaction would not close as a result.[90]

PAWC proposes that if the BASA acquisition is not included in rate base, a two-step rate increase be allowed.[91] We agree with the concerns outlined by the OCA and recommend that the proposed two-step rate increase not be approved.[92] Although the Commission has approved the BASA acquisition, it cannot be predicted with certainty that the BASA acquisition will close with the same terms approved by the Commission, e.g., as the OCA

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[87] I&E RB at 5-6.

[88] OCA RB at 17-19.

[89] *See* OCA MB at 25-27.

[90] OCA MB at 28.

[91] PAWC RB at 12.

[92] OCA MB at 30-31.

asserts, an appellate court could remand the BASA acquisition proceeding to the Commission.[93] Although PAWC argues the standard should be whether it is "reasonably certain" a transaction will close in the FPFTY, we have no basis to predict how the Commonwealth Court or, if the case is appealed, the Supreme Court will act on the BASA acquisition with any certainty. The Commission's action in denying the Brentwood acquisition already demonstrates the tenuous basis to PAWC's step proposal, where PAWC originally included the Brentwood acquisition because it was "likely to close prior to the end of the FPFTY."[94] We also agree with the OCA and recommend that, since the BASA and Brentwood system should be excluded from the FPFTY rate base, PAWC's claims for rate base additions for improvements to these systems should similarly be excluded.[95]

Removing these acquisitions from rate base results in the proposed adjustments in Rate Base for AWC Plant, Farmington Plant, and Sadsbury Plant detailed in Table II Water and Wastewater SSS (WW SSS).

Finally, we do not make a recommendation concerning OSBA's advocated BASA mitigation adjustment because we do not recommend that BASA be included in PAWC's FPFTY rate base.

B. Depreciation Reserve

1. PAWC's Position

PAWC's claim for accrued depreciation related to its utility plant-in-service was developed and presented by PAWC witness John J. Spanos, President of Gannett Fleming Valuation and Rate Consultants, LLC ("Gannett Fleming"). The details underlying the methodology employed by Mr. Spanos, together with all supporting calculations and

93 *See* OCA MB at 30-31.

94 PAWC St. 1-R, p. 4.

95 *See* OCA RB at 26-27.

documentation, are set forth in PAWC's Exhibits 11-A though 11-M. Mr. Spanos completed depreciation studies to estimate the annual depreciation accruals related to water and wastewater plant-in-service for ratemaking purposes and, using PUC-approved procedures, to estimate the Company's book reserve as of June 30, 2023, June 30, 2024, and June 30, 2025.[96] PAWC's annual depreciation accrual applicable to plant-in-service at June 30, 2025, is $265,476,224. PAWC MB at 17-18.

PAWC states that service life studies were the basis for the service lives and survivor curves Mr. Spanos used to calculate annual accruals. PAWC's most recent service life studies were performed in 2022 for the Company's water assets (based on plant data through 2021) and in 2020 for its wastewater assets (based on plant data through 2019).[97] OCA witness Smith objects to PAWC's use of service life/survivor curve information (1) from the most recent water asset service life study (the "2021 Water Service Life Study") for three water accounts and (2) for the BASA wastewater facilities that differed from information presented in the Section 1329 acquisition proceeding.[98] Based on these objections, he proposed downward adjustments to depreciation expense (a reduction of $15.479 million for water and $877,000 for BASA).[99] PAWC MB at 18.

PAWC asserts that OCA witness Smith's objections have no reasonable basis and should be rejected by the Commission. First, regarding water accounts 304.15 (Other Water Source Structures), 331.00 (Mains and Accessories), and 335.00 (Fire Hydrants), Mr. Smith argues that information from the 2021 Water Service Life Study should not be used solely because the life parameters were "drastically shortened" as compared to the service life information presented in PAWC's 2022 rate case proceeding (Docket No. R-2022-3031673) that was taken from an earlier service life study (the "2016 Water Service Life Study"). For these three water accounts only, he recommends use of the outdated service life information from the

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96 *See generally* PAWC St. 11.

97 PAWC St. 11, p. 7.

98 OCA St. 2, pp. 64-66 (water asset accounts), 38-42 (BASA).

99 *Id.* at 66 (water asset accounts), pp. 41-42 (BASA).

2016 Water Service Life Study.[100] In his rebuttal testimony, Mr. Spanos provides detailed survivor curve information for the three water accounts at issue and shows that, for each account, the updated information from the 2021 Water Service Life Study was a better statistical fit with the most current historical data than the 2016 Water Service Life Study.[101] PAWC MB at 18-19.

Second, regarding the BASA wastewater assets, PAWC states that Mr. Smith argues that the service life/survivor curve information presented by the Company in this case was improper because it was "dramatically inconsistent" with service life/survivor curve information presented in the related Section 1329 acquisition proceedings for these systems.[102] The life estimates utilized in the Company's Section 1329 were based on different concepts that were not intended for determining depreciation recovery patterns for existing and future assets. In this proceeding, the Company avers that it properly developed life estimates and depreciation expense for BASA using standard practices and, unlike the Section 1329 proceedings, the life analysis included information about how PAWC plans to operate all of the existing and future wastewater systems.[103] PAWC MB at 19.

2. I&E's Position

I&E did not provide testimony specifically related to depreciation reserve. I&E MB at 15.

3. ALJs' Recommendation

We agree with PAWC that it demonstrated that its 2021 Water Service Life Study was a better statistical fit with the most current historical data than the 2016 Water Service Life

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100 OCA St. 2, pp. 64-66.

101 PAWC St. 11-R, pp. 5-10.

102 OCA St. 2, pp. 38-42.

103 PAWC St. 11-R, pp. 10-11.

Study.[104] Therefore, we recommend that the Commission adopt PAWC's claim for accrued depreciation related to its utility plant-in-service. However, consistent with our recommendation in Utility Plant in Service, above, depreciation reserve associated with utility-plant-in-service related to AWC, BASA, Farmington, and Sadsbury should be excluded.

C. Cash Working Capital

1. PAWC's Position

PAWC states that cash working capital represents the funds needed to pay O&M expenses and taxes that, on average, are incurred in advance of the utility's receipt of revenues. PAWC calculated its cash working capital requirement using the accepted, PUC-approved lead-lag method.[105] No party disputed the methodology the Company employed or challenged its proposed revenue lag, expense lag or net lag (revenue lag minus expense lag). However, O&M expenses are an input to the calculation of cash working capital. Therefore, I&E witness Okum and OCA witness Smith propose adjustments to the Company's requested cash working capital that are concomitant to their proposed adjustments to O&M expenses. If any changes are made to the Company's proposed O&M expenses, its cash working capital would need to be recalculated. PAWC MB at 19-20.

In its Reply Brief, PAWC states that I&E's and the OCA's Main Briefs confirm that they do not dispute the methodology PAWC used to establish its cash working capital requirements.[106] PAWC RB at 14.

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[104] PAWC MB at 18-19.

[105] PAWC St. 4, pp. 13-15.

[106] *See* I&E MB at 15; OCA MB at 33.

2. I&E's Position

I&E accepts the Company's use of the lead/lag method but disagrees with the Company's CWC claim. I&E ultimately recommended that PAWC's O&M expense claims be reduced by $8,111,532 for water operations and $504,709 for wastewater SSS operations, which reduced the Company's CWC allowance by $1,119,556. No O&M adjustments were made by I&E to Wastewater CSS operations, therefore, there is no corresponding CWC adjustment shown in the above table. I&E avers that because its recommended expense adjustments are prudent for the reasons discussed herein, I&E's recommended CWC allowance of $26,149,755 ($27,269,311-$1,119,556)[107] is reasonable. I&E MB at 16-17.

However, as explained by Ms. Okum "[a]ll adjustments to the Company's claims for revenues, expenses, taxes, and rate base must be continually brought together for each operating unit in the Administrative Law Judge's Recommended Decision and again in the Commission's Final Order. I&E states that this process, known as iteration, effectively prevents the determination of a precise calculation until all adjustments have been made to the Company's claims."[108] As a result, this number would be subject to change based on any other expense adjustments the ALJs may adopt in their Recommended Decision, or those that the Commission may adopt in their final Order. I&E MB at 17-18.

3. OCA's Position

The OCA states that given that the Commission should remove the BASA and Brentwood revenue requirements in their entirety for the reasons above, the Commission should exclude PAWC's CWC claims for the BASA and Brentwood systems.[109] As it relates to Water and Wastewater, OCA witness Smith made resulting adjustments to PAWC's CWC claim[110]

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107 I&E St. 1-SR, p. 4.

108 I&E St. 1-SR, p. 37.

109 OCA St. 2, p. 47, n.8.

110 PAWC Ex.3-A; OCA St. 2, pp. 46-47.

based on his adjustments to PAWC's O&M expenses and interest and dividend expenses, and the capital structure recommended by OCA Witness Garrett. Specifically, Mr. Smith recommended: (1) negative adjustment to CWC for Water by $1.761 million; (2) negative adjustment to CWC for Wastewater SSS by $150,794; and (3) negative adjustment to CWC for CSS Wastewater by $98,811.[111] The OCA states that should the Commission adopt the OCA's recommended adjustments to expenses, the Commission should adopt the OCA's resulting adjustments to CWC for PAWC's existing systems. OCA MB at 33.

4. ALJs' Recommendation

No party challenged PAWC's methodology of calculating CWC. However, as the parties acknowledge, CWC is concomitant to adjustments elsewhere to PAWC's claims.[112] Therefore, based on our other recommendations in this Recommended Decision, we recommend that PAWC's claim for CWC should be adjusted for Interest and Dividends, Taxes, and O&M Expenses detailed in Tables II, IV, V, and VI for Water, WW SSS, and Wastewater CSS (WW CSS).

D. Acquisition Adjustment and Amortization Expense

1. I&E's Position

PAWC is claiming $3,749,235 of Acquisition Adjustment in the FPFTY. I&E MB at 18. For the Sadsbury system, the Company is projecting that the purchase price will be $945,612 less than the net book value of the Sadsbury plant.[113] Because it is a negative Acquisition Adjustment, the Company is required to amortize the adjustment as a credit back to customers over 10 years. While there is no rate base adjustment, the Company is claiming a negative $94,561 ($945,612 /10) Acquisition Adjustment expense be credited back to customers

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111 OCA St. 2, pp. 47-48; OCA Ex. LA-2, Schs. B-5.B, B-5.C, B-5.D.

112 PAWC MB at 19-20; I&E MB at 17-18; OCA MB at 33.

113 PAWC Initial Filing Volume 4; PAWC Ex. 3-B, p. 344.

over 10 years. As I&E has recommended the Sadsbury acquisition be removed from this proceeding in total, I&E states that it will also be necessary to remove this negative acquisition adjustment.[114] I&E MB at 18.

I&E witness Kubas recommends that $83,085 of Transaction Costs related to the Sadsbury system and $51,761 of Transaction Costs related to the Farmington system included in the Acquisition Adjustments be removed from the total Acquisition Adjustment claimed in rate base. These systems are not yet owned by PAWC, therefore I&E argues that PAWC should not be able to include the corresponding Transaction Costs incurred to acquire these systems as part of the total Acquisition Adjustment in rate base from these systems in the SSS Operations. I&E MB at 18-19.

If the Commission adopts I&E's recommendation to exclude the Sadsbury and Farmington system, there should be a corresponding $9,147 reduction of amortization expense claimed for the Sadsbury system and $5,699 claimed for the Farmington System.[115] As described above, I&E avers that these systems are not yet owned by PAWC, and it is premature to allow PAWC to recover these corresponding transaction expense in this case. In addition, if the $83,085 of Transaction Costs related to the Sadsbury system and $51,761 of Transaction Costs related to the Farmington system be removed from the total Acquisition Adjustment claimed in rate base, there should be a corresponding reduction of $8,358 of Annual Amortization related to the Sadsbury system and a reduction of $5,224 of Annual Amortization related to the Farmington system.[116] I&E MB at 19.

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114 I&E St. 3, p. 83.

115 PAWC Initial Filing Volume 3, SSS Operations, page 130.

116 I&E St. 3, pp. 84-85, citing I&E Ex. 3, Sch. 28, lines 10 and 18.

2. OCA's Position

The OCA states:

> "…the Commission should exclude from revenue requirement all expenses related to the six aspirational acquisitions. In summary:
>
> 1. *Audubon water*: $1.586 million of O&M expense and taxes other than income expense, $763,977 amortization expense, and $269,599 depreciation expense should be removed from Water in the FPFTY. OCA St. 2 at 26, 44, 49-50, 52.
>
> 2. *Farmington water*: $152,385 of O&M expense and taxes other than income expense, $21,549 amortization expense, and $101,751 of depreciation expense should be removed from Water in the FPFTY. OCA St. 2 at 29, 44-45, 50, 52-53.
>
> 3. *Farmington wastewater*: $264,176 of O&M expense and taxes other than income expense, $5,699 amortization expense, and $137,987 depreciation expense should be removed from Wastewater SSS in the FPFTY. OCA St. 2 at 29, 45, 51, 53.
>
> 4. *Sadsbury wastewater*: $249,288 of O&M expense and taxes other than income expense, $85,414 amortization expense, and $51,847 depreciation expense should be removed from Wastewater SSS in the FPFTY. OCA St. 2 at 30-31, 45-46, 51-52, 53-54.
>
> 5. *BASA wastewater*: revenue requirement should be removed entirely. OCA St. 2 at 33; Exh. LA-1, Sch. A at 1.
>
> 6. *Brentwood wastewater*: revenue requirement should be removed entirely. OCA St. 2 at 37; Exh. LA-1, Sch. A at 1. OCA St. 2SR at 28-29, 30-32."[117]

3. ALJs' Recommendation

We agree with I&E and OCA and recommend that, if the disputed Acquisitions are removed from rate base, the Commission also remove the acquisition adjustments,

117 OCA MB at 41-42.

transaction costs, and related amortization expenses, for the AWC, Sadbury, and Farmington systems.[118] This results in the proposed adjustments in Rate Base for AWC, Sadsbury, and Farmington Acquisition Adjustments and Transaction Costs detailed in Table II Water and WW SSS. Adjustments for amortization expense are discussed in the Amortization Expense section below.

E. Annual Depreciation Expense

1. I&E's Position

I&E witness Kubas recommends that $24,342 of annual depreciation expense associated with the Sadsbury wastewater system and $11,611 associated with the Farmington wastewater system be removed from the SSS Operations annual depreciation expense.[119] Mr. Kubas explains that the filing did not contain a breakdown of annual depreciation expense for the Farmington System; therefore, he applied the approximately 1.26% composite depreciation rate applicable in the Sadsbury system to the Farmington system net plant to arrive at the $11,611 ($923,272 X 0.012576) of Farmington annual depreciation expense.[120] I&E MB at 19-20.

This recommendation is consistent with the I&E recommendation that these systems be removed from this filing as there is no certain date when PAWC will actually own them. As PAWC is not currently the owner of the systems, PAWC should not be able to include the annual depreciation expense therefrom. I&E MB at 20.

2. ALJs' Recommendation

We agree with I&E and recommend that, if the disputed Acquisitions are removed from rate base, the Commission also remove annual depreciation expense for the AWC,

[118] I&E MB at 18-19; OCA MB at 25.

[119] I&E St. 3, pp. 80-81; *see also* I&E Ex. 3, Sch. 28, lines 6-8.

[120] I&E St. 3, p. 81.

Sadsbury, and Farmington systems.[121] Adjustments for depreciation expense are discussed in the Depreciation Expense section below.

F. Reporting – Utility Plant in Service

1. I&E's Position

I&E recommends that the Company provide I&E and the Office of Consumer Advocate (OCA) with updates to PAWC Ex. 3-A, pp. 26, 97, 146, 179, and 218 no later than December 1, 2025, under this docket number. I&E states that PAWC's updates should include actual plant additions and retirements for the twelve months ending June 30, 2024, and for the twelve months ending June 30, 2025. I&E MB at 20.

The Company is estimating that it will add approximately $742,020,7140 of plant additions in the FTY ending June 30, 2024, and approximately $797,874,110 of plant additions in the FPFTY. I&E avers that there is value in determining how closely PAWC's projected investments in future facility comport with the actual investments that are made by the end of the FTY and the FPFTY. Determining the correlation between PAWC's projected and actual plant additions and retirements will help verify the validity of PAWC's projections. I&E MB at 20.

PAWC has indicated that it agrees with I&E's reporting requirement recommendation and that it will provide the updates as I&E requested.[122] I&E MB at 21.

2. ALJs' Recommendation

PAWC has indicated that it agrees with I&E's reporting requirement recommendation and that it will provide the updates as I&E requested.[123] Therefore, we

121 I&E MB at 18-19.

122 PAWC St. 4-R, p. 7.

123 PAWC St. 4-R, p. 7.

recommend that the Company provide I&E and the OCA with updates to PAWC Ex. 3-A, pp. 26, 97, 146, 179, and 218 no later than December 1, 2025, under this docket number, and PAWC's updates should include actual plant additions and retirements for the twelve months ending June 30, 2024 and for the twelve months ending June 30, 2025.[124]

VII. REVENUES

A. Present Rate Revenue / Revenues Related to the Six Proposed Acquisitions

1. PAWC's Position

PAWC states that, as shown in Appendix A to its Main Brief, PAWC's pro forma revenues, at present rate levels, equal $1,213,394,607 for the FPFTY. The Company states that it developed this claim using the level of water and wastewater sales revenue generated during the historic test year ("HTY") ended June 30, 2023, and, in accordance with well-established PUC practice, making appropriate adjustments to eliminate non-recurring items and to annualize the effect of known or anticipated changes. PAWC states that all the adjustments made in developing the Company's pro forma revenue claims are described in the direct and rebuttal testimony of Mr. Rea (PAWC Statements 10 and 10-R) and further detailed in PAWC Exhibit 3-A Revised. PAWC MB at 20-21.

In its Reply Brief, PAWC states that the Commission should reject OCA and I&E's proposed exclusion of revenues from the AWC, BASA, Farmington, and Sadsbury systems. PAWC states that I&E also proposes an increase in the Company's Other Operating Revenue to reflect additional late payment revenue.[125] PAWC states that its response to the OSBA's proposed mitigation adjustment is addressed in the Rate Base – Utility Plant-In-Service section of its Reply Brief. The Company also continues to oppose OCA's proposal to "impute" revenue from American Water Resources ("AWR") for the reasons set forth in Section XII.E.2.e.

[124] *See* I&E MB at 20.

[125] I&E MB at 23.

of PAWC's Main Brief. PAWC states that if the Commission determines that PAWC cannot continue its long-standing on-bill arrangement with AWR (which PAWC avers should be denied for the reasons set forth in Section XII.E. of PAWC's Main Brief and its Reply Brief), the associated revenues must also be removed from the Company's revenue requirement.[126] CAUSE-PA recommends that the Commission reject PAWC's revenue proposal in its entirety.[127] PAWC states that CAUSE-PA makes this recommendation despite stating that it "did not take a specific position as to the revenue requirement in this proceeding," and without providing any support (or even one citation to the record).[128] PAWC asserts that this recommendation should therefore be denied. PAWC RB at 15-16.

2. I&E's Position

I&E recommends that $12,814,193 of present rate revenue from BASA and $1,824,191 of present rate revenue from Brentwood be excluded from rate recovery. I&E also recommends that $322,926 of present rate revenue from Farmington and $471,228 of present rate revenue from Sadsbury be excluded from this case.[129] As explained above, these are systems that PAWC does not currently own, and it is unclear at what point PAWC will actually own these systems. As such it is I&E's recommendation that all inclusion of these pending acquisitions be removed from the instant proceeding. I&E MB at 22.

3. OCA's Position

Consistent with its recommendation to remove the utility plant in service related to the not-yet-acquired property associated with the six proposed acquisitions, the OCA argues that the Commission should: (1) exclude from Water the $2.965 million and $266,371 in operating revenues related to Audubon water and Farmington water, respectively; (2) exclude from

126 *See* PAWC St. 1-R, pp. 20-21.

127 CAUSE-PA MB at 18.

128 *See Id.*

129 I&E St. 3-R, p. 17.

Wastewater SSS the $322,926 and $471,228 in operating revenues related to Farmington wastewater and Sadsbury wastewater, respectively; and (3) remove BASA and Brentwood entirely including the revenues.[130] OCA MB at 34.

4. OSBA's Position

The OSBA states that, on March 4, 2024, the Commission entered an Opinion and Order at Docket No. A-2021-3024058 denying PAWC's acquisition of the Borough of Brentwood's wastewater collection system assets. The OSBA argues that therefore, the Brentwood-related revenue requirement increase that PAWC proposes for Brentwood wastewater customers of $369,405 must be eliminated. The OSBA asserts that furthermore, PAWC's proposed Act 11 revenue shift related to Brentwood of $1.6 million must also be eliminated. The Company has agreed to remove the Brentwood revenue requirement from its claims in this case.[131] OSBA MB at 9.

The Joint Application of Pennsylvania-American Water Company and Audubon Water Company, at Docket Nos. A-2023-3043194, A-2023-3043196, has scheduled evidentiary hearings for April 23 and 24, 2024. PAWC is proposing to acquire Audubon's water assets through a merger transaction valued at $8.0 million, even though the net book value of the Audubon assets is only $360,229 as of December 31, 2024.[132] If the Audubon acquisition is rejected by the Commission, or if the Commission does not issue a final order in the Audubon acquisition proceeding prior to the record closing in the instant proceeding, all costs related to Audubon should be removed from the revenue requirement in this case. At a minimum, OSBA recommends removing the costs associated with the Audubon acquisition premium above net book value, which reduces the revenue requirement by approximately $1,913,386. OSBA MB at 10.

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130 OCA St. 2, pp. 33-37, 49-50, 51-52; OCA St. 2SR, pp. 30-31.

131 Tr. 1970.

132 OSBA St. 1-S, p. 14.

In its Reply Brief, the OSBA asserts that PAWC's argument that the Company's "revenue requirement (rate base, revenues, expenses and taxes) properly includes water or wastewater systems that PAWC expects to acquire from Audubon Water Company" should be rejected by the Commission. The OSBA states that once the Commission decides the PAWC / Audubon case, that result can be addressed in the Company's next rate case. OSBA RB at 7-8.

5. CAUSE-PA's Position

CAUSE-PA did not take a specific position as to the revenue requirement in this proceeding. However, CAUSE-PA is highly concerned about how PAWC's proposal to dramatically increase rates of basic water/wastewater services will negatively affect the accessibility of service for residential customers, especially low-income customers who already struggle to maintain service to their home. CAUSE-PA requests that that PAWC's revenue proposal is rejected in its entirety, as PAWC has failed to show that its tariff proposals are – as a whole – just, reasonable, and in the public interest. CAUSE-PA MB at 18.

6. ALJs' Recommendation

Both I&E and the OCA recommended that PAWC's operating revenues should be adjusted downwards to account for not including the Acquisitions in rate base. I&E MB at 22; OCA MB at 34. Since we recommend above that the Acquisitions not be included in rate base, we also recommend that PAWC's operating revenues should be adjusted downwards consistent with I&E's and the OCA's positions.[133] This results in the proposed adjustments for Revenues identified Table II Water and WW SSS. These revenue adjustments require concomitant adjustments for bad debt and general assessment expenses (Table IB Water, WW SSS, and WW CSS) and forfeited discounts / late payment fee / penalties revenues (PAWC Ex. 3-A Revised, Pg. 24R, 95R, and 216R) that are determined as a percentage of revenues. Concomitant revenue

[133] Similarly, although the OSBA did not extensively brief rate base issues, the OSBA did argue for the elimination of the Brentwood and Audubon Water Company acquisitions from PAWC's revenue requirement. OSBA MB at 9; OSBA RB at 7-8.

is then subject to the same adjustment, as detailed in the Concomitant Revenue rows in Table II Water, WW SSS, and WW CSS.

B. Late Payment Revenue

1. I&E's Position

I&E witness Kubas recommends that Other Operating Revenue be increased by $154,448, from $3,241,057 to $3,395,504 to appropriately reflect additional late payment revenue.[134] To arrive at this amount, Mr. Kubas multiplied the present rate late payment revenue of $463,681 by the 35.1% increase in tariff rates to arrive at the $162,780 ($463,681 X 35.106%), and then subtracted the $8,332 increase the Company reflected to arrive at I&E's late payment revenue increase of $154,448.[135] I&E MB at 23.

2. ALJs' Recommendation

The Company does not oppose I&E's method of calculating late fee revenues but asserts that the proposed increase in Other Operating Revenues should be rejected if the Commission rejects I&E's proposed increases in rates for SSS and CSS customers.[136] Since we do not recommend adoption of I&E's proposed increases in rates for SSS and CSS customers, we do not recommend adoption of I&E's proposed adjustment to Late Payment Revenue. PAWC's proposed ratio of 0.5027% of penalties to total billed water/wastewater sales revenues specified in PAWC Ex. 3-A Revised, Pgs. 24R, 95R, and 216R, is adopted to calculate PAWC's late payment fee revenues at present and proposed rates. This ratio should also be used to calculate concomitant late payment fee revenues when adjusting present rate revenues, consistent with the adjustment recommended in subsection a. above, and to calculate late payment fee

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[134] *Id at* 54.

[135] *Id.*

[136] PAWC RB at 15-16.

revenues at allowable rates, consistent with the Commission's final authorized increase in billed water/wastewater sales revenues.

C. Miscellaneous Revenues (AWR)

1. OCA's Position

The OCA has not challenged PAWC's miscellaneous revenue claims. In rebuttal, Ms. Everette states that PAWC's $659,624 miscellaneous revenue claim related to AWR for billing and marketing services that PAWC provides to this entity should be removed from PAWC's revenue requirement in the FPFTY if the Commission determines that PAWC cannot continue to bill for AWR going forward.[137] The OCA disagrees with PAWC's position because (1) the $659,624 revenue that PAWC receives from AWR and is fully substantiated by PAWC for the FPFTY, and (2) reflecting this miscellaneous revenue benefits consumers by offsetting the Company's proposed revenue requirement.[138] The OCA states that no PAWC witness testified that PAWC should stop the billing and marketing arrangement with AWR based on the concerns stated in Ms. Alexander's direct testimony.[139] Furthermore, Ms. Alexander has only recommended an investigation and the pause on any new enrollments.[140] Thus, if the Commission adopts Ms. Alexander's recommendation to open an investigation, it would be speculative to say what the outcome of that Commission investigation would be, how it would impact rates, or when the outcome will occur. Given this uncertainty and given that the amount of miscellaneous revenue that PAWC has been collecting from AWR is fully substantiated and benefits consumers, the $659,624 revenue should remain included in the revenue requirement for the FPFTY.[141] OCA MB 34-35.

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[137] PAWC St. 1SR, p. 21; OCA St. 2SR, p. 49.

[138] OCA St. 2SR, pp. 49-50.

[139] OCA St. 2SR, p. 50.

[140] OCA St. 6, p. 41; OCA St. 6SR, pp. 23-24.

[141] OCA St. 2SR, p. 50.

2. ALJs' Recommendation

Since we do not recommend adoption of the OCA's position to open an investigation into PAWC's relationship with AWR, we do not recommend any corresponding adjustment to PAWC's claim for Miscellaneous Revenues related to AWR.

D. Butler Area Sewer Authority ("BASA") Mitigation Adjustment

1. OSBA's Position

The OSBA asserts that a condition that the OSBA insisted on, and PAWC agreed to, in the Settlement Agreement approved at Docket No. A-2022-3037047 ("BASA Settlement"), is that the Company would move BASA rates to 1.40 times the current BASA rates or PAWC's proposed Rate Zone 1 system-average wastewater rates, whichever is lower, upon the later of (a) the first anniversary of Closing or (b) January 1, 2025.[142] The OSBA states that PAWC has adhered to this condition, but in this proceeding the Company has proposed to recover $21.6 million in annual Act 11 revenues from water customers associated with the acquisition of BASA. The OSBA argues that his recovery should be denied. OSBA MB at 8.

The OSBA argues that it is unreasonable to shift this cost burden to water customers in this case. PAWC "negotiated" the BASA acquisition price and negotiated with the OSBA and other parties to mitigate the impact on BASA customers in this rate case. Consequently, the OSBA recommends setting the BASA-related revenue requirement increase at the 40% capped increase for BASA wastewater customers, or $4,735,610, with no Act 11 revenue shift to water customers. This adjustment would decrease PAWC's proposed revenue requirement by $21.6 million, which is PAWC's proposed Act 11 revenue shift related to the BASA acquisition.[143] OSBA MB at 8-9.

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142 OSBA St. 1, p. 20.

143 OSBA St. 1, p. 25.

In its Reply Brief, the OSBA responds to PAWC's Main Brief by stating that the proposal offered by the OSBA does *not* "force shareholders to commit investment capital to furnish safe and reliable service ... while denying shareholders any compensation for the use of their funds." The OSBA is *not* proposing disallowance of recovery of any funds that are expended to improve the BASA systems, and the OSBA is certainly *not* proposing the *permanent* disallowance of those expended funds. OSBA RB at 6 (citing PAWC MB at 17) (emphasis in original).

2. ALJs' Recommendation

We do not make a recommendation concerning OSBA's advocated BASA mitigation adjustment because we do not recommend that BASA be included in PAWC's FPFTY rate base.

VIII. <u>EXPENSES</u>

A. Payroll Costs – Vacancy Rate

1. PAWC's Position

The Company's payroll allowance for the FPFTY was developed based on PAWC's authorized complement of 1,294 equivalent employees.[144] OCA witness Smith proposes an adjustment to reflect on a 1.76% vacancy rate.[145] In rebuttal testimony, PAWC accepted Mr. Smith's vacancy rate adjustment and updated payroll expense to reflect a merit increase that became effective January 8, 2024, for non-collective bargaining unit hourly employees and exempt employes (the "2024 Merit Increase").[146] PAWC states that, with the

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144 *Id.* at 4-7; *see also* PAWC St. 2, p. 39.

145 OCA St. 2, p. 59.

146 PAWC St. 5-R, pp. 2-3; PAWC Ex. 3-A Revised.

accepted adjustment and 2024 Merit Increase, PAWC's final payroll expense claim is $78,161,527. PAWC MB 21-22.

2. OCA's Position

The OCA recommends an adjustment to salaries, wages and related benefits for Water based on a 1.76% vacancy rate. The OCA states that PAWC accepted the adjustments based on the OCA's recommended vacancy rate. The adjustments reduce the salaries and wages by $1,045,353 and related payroll taxes by $79,970, and annual performance pay by $85,523 and related payroll tax by $6,543. The OCA recommends accompanying adjustments based on the vacancy rate for group insurance by $200,623 and 401K, DCP and ESPP by $72,817, resulting in a total proposed reduction to the Company's claim for salaries, wages, payroll taxes and related benefits by $1,490,829.[147] OCA MB at 35.

Additionally, the OCA recommends removing PAWC's expense claim in the amount of $123,250 from PAWC's Water related to its external Board given that PAWC eliminated its external Board as of December 31, 2023. The OCA states that PAWC agreed to remove this amount during its rebuttal phase of the proceeding.[148] OCA MB at 35-36.

3. ALJs' Recommendation

PAWC accepted OCA's proposed adjustment to Payroll Costs – Vacancy Rates.[149] Accordingly, we recommend that PAWC's Payroll Costs – Vacancy Rate be adjusted to reflect the OCA's proposed adjustment, i.e., a 1.76% vacancy rate. This is reflected in the

[147] PAWC St. 5R, pp. 2-3; OCA St. 2, pp. 56-59; OCA St. 2SR, p. 2, n.1, 2.

[148] OCA St. 2, p. 62; OCA St. 2SR, p. 2.

[149] PAWC MB at 21-22.

Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

PAWC also accepted the OCA's recommendation to remove its expense claim in the amount of $123,250 related to its external Board given that PAWC eliminated its external Board as of December 31, 2023.[150] Accordingly, we recommend that PAWC's claim for $123,250 related to its external Board be eliminated. This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

B. Annualized Performance Pay (PAWC)

1. PAWC's Position

PAWC asserts that the performance compensation challenged by Ms. LaConte and Mr. Higgins is an integral part of the total market-based compensation package that is necessary to compete for and retain qualified employees so that customers continue to receive safe and reliable service.[151] PAWC states that as the Commission has found on numerous occasions in the past, the focus for ratemaking purposes is the reasonableness of overall compensation awards, and not the size or nature of individual pieces of the compensation package.[152] PAWC avers that no party contests that the Company's total market-based employee compensation is reasonable and PAWC provided evidence concerning how performance pay

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150 PAWC St. 5R, p. 7.

151 PAWC St. 2, pp. 39-42; PAWC St. 2-R, pp. 4-10.

152 *See, e.g.*, *Pa. P.U.C. v. Pa.-American Water Co.*, Docket Nos. R-2020-3019369 and R-2020-3019371 (Opinion and Order entered Feb. 25, 2021) (*PAWC* 2020) at 50-53; *Pa. PUC v. Aqua Pa., Inc.*, 2022 Pa. PUC LEXIS 161, *112 (Order May 16, 2022) (*Aqua 2022*) at 100-101; *UGI 2018* at 73-74; *Pa. Pub. Util. Comm'n. v. PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597, p. 26 (Opinion and Order entered Dec. 28, 2012) (*PPL 2012*); *Pa. Pub. Util. Comm'n. v. Aqua Pa., Inc.*, Docket No. R00072711, pp. 20-21 (Opinion and Order entered July 31, 2008); *Pa. Pub. Util. Comm'n v. PPL Gas Utils. Corp.*, Docket No. R-00061398, p. 40 (Opinion and Order entered Feb. 8, 2007).

benefits customers by encouraging, among other things, operational efficiency.[153] PAWC notes that its performance-based compensation expense, including APP and LTPP, was recently reviewed and approved by the Commission in PAWC's 2020 base rate proceeding.[154] PAWC MB at 23.

In its Reply Brief, PAWC states that the OSBA and PAWLUG's Main Briefs do not address (or even acknowledge) the adverse precedent presented by PAWC in its Main Brief. PAWC RB at 18.

2. I&E's Position

I&E states that it withdrew this adjustment in Surrebuttal testimony.[155] I&E MB at 25.

3. OCA's Position

The OCA states that the Company's acceptance of the OCA's recommended vacancy rate of 1.76% supports the OCA's adjustments to Annualized Performance Plan Expense.[156] The OCA's adjustment reduces annualized performance plan expense by $85,523 and related payroll tax expense by $6,543 for Water.[157] OCA MB at 36.

4. OSBA's Position

The OSBA recognizes that while rewarding employees for financial performance can, under certain specific circumstances, be appropriate, the responsibility for funding such

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[153] PAWC St. 2-R, pp. 4-10.

[154] *PAWC 2020* at 53.

[155] I&E St. 1, p. 16.

[156] OCA St. 2SR, p. 2, n.1.

[157] OCA St. 2, pp. 59-60.

awards rests mostly with the shareholders. Therefore, the OSBA recommends that 50% of the APP expense be eliminated from the revenue requirement, based on the weight of the EPS goal included in the APP corporate performance calculation as well as placing more of the financial burden for the APP on the Company's shareholders. This adjustment decreases the FPFTY revenue requirement by approximately $5,153,394 in total, which includes the impact of removing 50% of the APP expense directly related to PAWC employees, as well as 50% of the APP expense allocated to PAWC by its Service Company from the revenue requirement. This amount also includes the estimated impact on payroll tax expense.[158] OSBA MB at 11.

5. ALJs' Recommendation

Since we recommend that the Commission adopt the OCA's proposed adjustment to PAWC's Payroll Costs – Vacancy Rate, we also recommend that this adjustment be applied to PAWC's Annualized Performance Pay (APP) expense claim.[159] This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

We also recommend that the Commission reject the OSBA's proposed adjustment to APP. Consistent with the recommendation to reduce this expense in half, the OSBA acknowledges that the calculation for the APP is not based solely on PAWC's financial performance.[160] Additionally, we find that PAWC provided sufficient evidence concerning how its entire performance pay calculation, inclusive of financial performance metrics, benefits customers by encouraging, among other things, operational efficiency and accessing capital at reasonable rates.[161] Additionally, as PAWC notes, approval of the claim for APP expense,

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158 OSBA St. 1, pp. 11-12.

159 *See* OCA MB at 36.

160 OSBA MB at 11; *see also* PAWC St. 2, p. 41.

161 PAWC St. 2-R, pp. 6-7.

inclusive of financial metrics, is consistent with the Commission's decision in PAWC's 2020 base rate case to approve a similar expense.[162]

C. Group Insurance Expense

1. PAWC's Position

PAWC states that the OCA's proposed adjustments to group insurance expense are concomitant to OCA witness Smith's recommended vacancy rate addressed in the Payroll Costs – Vacancy Rates section of PAWC's Main Brief. PAWC MB at 23.

2. OCA's Position

The OCA states that the Company's acceptance of the OCA's vacancy rate supports the OCA's adjustments to Group Insurance Expense.[163] The OCA's adjustment reduces projected 2025 group insurance expense by $200,623 for Water.[164] OCA MB at 36.

3. ALJs' Recommendation

PAWC acknowledged that the OCA's proposed adjustments to group insurance expense are concomitant to OCA witness Smith's recommended vacancy rate.[165] Therefore, as we recommend that the Commission adopt the OCA's adjustment to vacancy rate, we also recommend that the Commission adopt the OCA's proposed adjustment to group insurance expense. This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

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162 PAWC MB at 23 (citing *PAWC 2020* at 53).

163 OCA St. 2SR, p. 2, n.1.

164 OCA St. 2, p. 60; OCA St. 2SR, p. 2.

165 PAWC MB at 23.

D. 401K, Defined Contribution Plan and Employee Stock Purchase Plan

1. PAWC's Position

As Ms. O'Malley explains, the ESPP is available to all active, full- or part-time employees of American Water Works Company, Inc. (American Water). PAWC employees who become American Water shareholders have additional incentive to establish efficiencies that benefit customers.[166] PAWC MB at 24.

2. OCA's Position

The OCA states that PAWC's acceptance of the OCA's vacancy rate supports the OCA's adjustments to 401K, Defined Contribution Plan and Employee Stock Purchase Plan Expense.[167] The OCA's adjustment reduces projected 2025 expense by $72,817 for Water.[168] OCA MB at 36.

3. OSBA's Position

The OSBA states that PAWC provides an Employee Stock Purchase Plan ("ESPP"), which gives a 15% discount on purchases of American Water Works' stock by employees who are enrolled in the ESPP.[169] PAWC proposes to include the cost of providing this employee benefit in its revenue requirement. The OSBA recommends that PAWC's proposal that ratepayers should fund the stock purchase discount be rejected. The OSBA argues that it is not the job of ratepayers to incentivize employees to purchase American Water Works stock. Since the ESPP operates through payroll deductions, this stock purchase mechanism increases payroll costs for the portion of an employee's compensation that is used to purchase

166 PAWC St. 5-R, p. 5; *see also* PAWC St. 2-R, p. 6.

167 OCA St. 2SR, p. 2, n.1.

168 *Id at* 61; OCA St. 2SR, p. 2.

169 OSBA St. 1, p, 13.

stock.[170] The OSBA argues that if PAWC wants to provide an incentive for employees to purchase American Water Works stock, the ESPP should be funded by shareholders. This adjustment decreases the FPFTY revenue requirement by approximately $457,009 in total.[171] OSBA MB at 11-12.

4. ALJs' Recommendation

Since we recommend that the Commission adopt the OCA's proposed adjustment to PAWC's Payroll Costs – Vacancy Rate, we also recommend that this adjustment be applied to PAWC's 401K, Defined Contribution Plan and Employee Stock Purchase Plan expense claim.[172] This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

We also recommend that the Commission reject the OSBA's proposed adjustment to Employee Stock Purchase Plan expense. We find that PAWC provided sufficient evidence that PAWC employees who become American Water shareholders have additional incentive to establish efficiencies that benefit customers.[173] This finding is consistent with our recommendation above that the claim for Annualized Performance Pay expense appropriately includes a financial metric component.

E. Stock-Based Compensation Expense – American Water Executives

1. PAWC's Position

PAWC states that, as explained by its witness Runzer, the expenses OCA witness Smith opposes are part of the compensation provided to top executives to ensure that total

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170 OSBA St. 1, pp. 13-14.

171 OSBA St. 1, p. 14.

172 *See* OCA MB at 36.

173 PAWC St. 5-R, p. 5; *see also* PAWC St. 2-R, p. 6.

compensation is reasonable, and market based. PAWC asserts that no party presents evidence that top executives could be attracted or retained with a total compensation level that is substantially below PAWC's claim. Like all other employees, top executives are necessary to enable PAWC to manage the provision of safe and reliable water and wastewater service. Both customers and utility investors benefit from awarding a portion of total compensation as stock-based compensation because: (1) it incentivizes utility employees to promote the Company's efficiency and financial health; and (2) it promotes a stable leadership team and mitigates employee turnover costs by vesting over a prospective three-year period.[174] Finally, the PUC recently reviewed and approved PAWC's total compensation package. It is appropriate to do so again in this case. PAWC MB at 24-25.

In its Reply Brief, PAWC states that the OCA completely ignores the recent approval of PAWC's performance-based compensation expense, including stock-based compensation associated with the LTPP, in its Main Brief – even though that approval was cited by PAWC witness Runzer in his rebuttal testimony.[175] Instead, the OCA cites to *Aqua 2022* where, as previously noted, stock-based compensation was approved, and attempts to distinguish the expense claim made by PAWC in this case. PAWC asserts that a careful read of the *Aqua 2022* decision, however, shows that OCA is simply recycling its failed arguments from that case. PAWC argues that an objective review of the record in this case shows that PAWC has provided substantial evidence related to the same customer benefits that were highlighted by the PUC when it approved Aqua's performance-based compensation: controlling costs, improving efficiency, promoting retention, and promoting safe and reliable service.[176] PAWC MB at 24-25.

2. OCA's Position

The OCA recommends an adjustment to remove expenses related to the stock-based compensation associated with a Long-Term Performance Plan (LTPP) for American Water

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[174] PAWC St. 2-R, pp. 8-10; *see also* PAWC St. 2-R, pp. 3-8.

[175] PAWC St. 2-R, p. 5.

[176] PAWC St. 2, pp. 39-42; PAWC St. 2-R, pp. 2-10.

Works. Inc. (AWK) top executive officers. The OCA recommends adjusting PAWC's claim for stock-based compensation by removing the portion projected to be paid to the top executives of AWK and charged to PAWC for the FPFTY linked to shareholder interests, not consumer interests. The stock-based compensation for those executives includes (1) performance stock units (PSU), and (2) restricted stock units (RSU). This adjustment reduces PAWC's operating expenses by $1.722 million to remove the stock-based compensation expense paid to AWK's top executives and charged from AWK to PAWC.[177] OCA MB at 36-37.

The OCA argues that this adjustment is necessary because ratepayers should not be required to pay for a portion of the expense for stock-based compensation paid to AWK's top executives, where such compensation is linked to the performance of AWK's stock price and has the primary purpose of benefitting AWK's stockholders and aligning the interests of participants with those of such stockholders. This recommendation is distinguished from the allowed expense in *Aqua 2022*, where the Commission found that stock-based compensation benefits ratepayers where the compensation is linked to performance objectives that benefit consumers, including controlling costs and compliance initiatives.[178] The OCA states that here, PAWC witness Runzer conceded that the stock-based compensation expense consists of RSUs and PSU and the compensation under the LTPP is linked to stock performance.[179] The OCA asserts that recovering that portion of stock-based compensation expense that is linked to shareholder interests from PAWC's customers is not reasonable nor does it promote reasonable, adequate, or efficient public utility service.[180] The OCA recommends allocating the adjustments to PAWC's Water and Wastewater by using the allocation factors reflected on Exhibit 3-B, page 301 from the Company's filing, which reduces pre-tax operating expenses by (1) $1.643 million for Water, (2) $51,658 for Wastewater SSS, and (3) $27,551 for CSS Wastewater.[181] OCA MB at 37.

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177 OCA St. 2, pp. 66-67.

178 *Aqua 2022* at 60-61.

179 PAWC St. 2R, p. 9; OCA St. 2SR, pp. 45-46.

180 OCA St. 2, p. 67; OCA St. 2SR, p. 67.

181 OCA St. 2, p. 69.

3. OSBA's Position

The OSBA states that PAWC provides stock-based compensation to eligible employees through its LTPP. Eligible employees are awarded restricted stock units ("RSUs") and performance stock units ("PSUs"). RSU awards are based on a three-year vesting period if the participant remains employed with the Company, and PSU awards are based on "performance vesting conditions."[182] The PSUs are awarded based on a combination of compounded EPS growth and relative total shareholder return when compared to a peer group of stock over a three-year period. The LTPP awards for the historic test year ended June 30, 2023, was approximately 22% RSUs and 78% PSUs.[183] OSBA MB at 12.

The OSBA recommends that the LTPP expense be removed from the revenue requirement – this is an award program that should be funded by shareholders. The majority of the LTPP cost is the PSU component, which is directly based on American Water Works' financial performance. The RSU component is simply based upon an employee continuing to work for PAWC, rather than any explicit work-related goals. The OSBA states that the PAWC employee who simply shows up to work for 3 years obtains RSUs. The OSBA avers that this is an expense that is properly borne by the Company's shareholders. This adjustment decreases the FPFTY revenue requirement by approximately $5,230,156 in total.[184] This amount includes the estimated impact on payroll tax expense. OSBA MB at 12.

4. PAWLUG's Position

PAWLUG is not proposing comprehensive adjustments to PAWC's expenses or a specific revenue requirement recommendation. However, PAWLUG requests that the Commission modify PAWC's proposed incentive compensation expense as the proposal to recover $4.1 million of incentive compensation costs is inflated by $2 million. As described in

182 OSBA St. 1, p. 12.

183 OSBA St. 1, p. 12.

184 OSBA St. 1, p. 13.

PAWLUG witness's LaConte's Direct Testimony, "PAWC seeks to recover a portion of its incentive compensation that is based on meeting financial targets as well as operations targets."[185] PAWLUG argues that while PAWC reserves managerial discretion to award incentive compensation as the Company deems appropriate, only incentive compensation associated with operational goals such as customer satisfaction or safety should be recoverable through base rates.[186] PAWLUG MB at 6.

PAWLUG states that the Commission should reduce PAWC's proposed $4.1 million of total incentive compensation expense by $2 million (resulting in total incentive compensation expense of $2.1 million) to eliminate the recovery of incentive compensation costs tied to financial targets. PAWLUG MB at 6.

5. ALJs' Recommendation

We recommend that the Commission approve PAWC's claim for Stock-Based Compensation Expense – American Water Executives. Consistent with the Commission's decision in *Aqua 2022*[187] and our recommendation above regarding APP expense, we find that PAWC sufficiently demonstrated that its claimed Stock-Based Compensation Expense, including its Long-Term Performance Plan (LTPP), benefits ratepayers.[188] We do not agree with the OCA that this expense is significantly different than the similarly allowed expense in *Aqua 2022*.[189] Both expenses include stock-based compensation that can produce operational efficiencies to benefit ratepayers. As PAWC witness Runzer explains, the LTPP includes both restricted stock units (RSUs) and performance stock units (PSUs).[190] PSUs reflect the Company's financial

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185 PAWLUG St. 1, p. 8.

186 *Id.*

187 *Aqua 2022* at 100-101.

188 PAWC St. 2, pp. 39-42; PAWC St. 2-R, pp. 2-10.

189 *See* OCA MB at 37.

190 PAWC St. 2, p. 41.

performance.[191] Consistent with our discussion above regarding the APP expense, improved financial performance can benefit customers by encouraging operational efficiency. RSUs are not linked to financial goals or targets but vest in equal increments in the three years following the year in which the RSUs were granted.[192] Although the OSBA asserts RSUs reward employees simply for showing up for work,[193] we agree with PAWC that encouraging employee retention can benefit ratepayers by maintaining stable leadership experienced with the Company's operations as well as avoiding turnover costs.[194] Finally, as PAWC notes, approval of the claim for LTPP expense is consistent with the Commission's decision to approve a similar expense in PAWC's 2020 base rate case.[195]

F. Executive Perquisites (AWW Executives Dividend Equivalents)

1. PAWC's Position

OCA witness Smith's proposed adjustments to PAWC's claimed O&M expenses to remove certain executive perquisites are addressed at the Stock-Based Compensation Expense – American Water Executives section of PAWC's Main Brief and Reply Brief. PAWC MB at 25; PAWC RB at 20.

2. OCA's Position

The OCA recommends an adjustment to remove expenses related to the executive perquisites associated with Dividend Equivalents for top AWK executives. This adjustment reduces PAWC's FPFTY operating expenses by $31,371 for AWK's top executives Other

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191 PAWC St. 2, p. 41, fn. 2.

192 *See* PAWC St. 2-R, p. 7.

193 OSBA MB at 12.

194 PAWC St. 2-R, p. 8.

195 PAWC MB at 23 (citing *PAWC 2020* at 53).

Compensation expense for Dividend Equivalents.[196] On page 53 of AWK's 2023 Proxy Statement under the section titled "Executive Compensation", it states the following with regard to Dividend Equivalents:

> Dividend equivalents are paid in cash with respect to PSUs and RSUs at such time, if ever, as the PSUs or RSUs are converted to common stock. Amounts in this column reflect PSU and RSU dividend equivalents that were paid out in 2022.[197]

The OCA states that this is another form of compensation to AWK executives linked to shareholder interests, not consumer interests. Charging the Dividend Equivalents portion of all Other Compensation received by AWK's top executives to PAWC's ratepayers is not reasonable, nor does it promote reasonable, adequate, or efficient public utility service.[198] The OCA's adjustment reduces pre-tax operating expenses by (1) $29,928 for Water, (2) $941 for Wastewater SSS, and (3) $502 for CSS Wastewater. OCA MB at 38.

3. ALJs' Recommendation

The executive perquisites associated with dividend equivalents are paid in cash with respect to PSUs and RSUs if the PSUs or RSUs are converted to common stock.[199] For the same reasons outlined in subsection e. above, we recommend that the Commission approve PAWC's claim for Executive Perquisites.

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196 OCA St. 2, p. 70.

197 OCA St. 2, p. 70.

198 OCA St. 2SR, pp. 47-48.

199 *See* OCA MB at 38.

G. Payroll Taxes

1. PAWC's Position

OCA witness Smith's proposed adjustments to PAWC's payroll taxes are addressed in the Payroll Costs – Vacancy Rates section of PAWC's Main Brief and Reply Brief. PAWC MB at 25; PAWC RB at 20. OSBA witness Higgins also recommended adjustments to payroll taxes.[200] PAWC states that this adjustment, however, is concomitant to his proposed adjustments to performance pay and the ESPP and, therefore, should be rejected for the reasons previously discussed. PAWC MB at 25. In its Reply Brief, PAWC states that the OSBA's proposed performance pay adjustment includes the estimated impact on payroll tax expense and is addressed in the Annualized Performance Pay section of the OSBA's Reply Brief.

2. I&E's Position

As noted above, I&E withdrew its performance pay adjustment in Surrebuttal testimony. As the I&E payroll tax expense adjustment was the result of the I&E performance pay adjustment, I&E withdrew its payroll tax expense adjustment in Surrebuttal testimony as well.[201] I&E MB at 26.

3. OCA's Position

The OCA's adjustments to payroll have related payroll tax adjustments. OCA MB at 38.

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200 OSBA St. 1, pp. 11-13.

201 I&E St. 1-SR, p. 17.

4. OSBA's Position

The OSBA states that payroll tax adjustments are appropriate if the Commission approves adjustments to compensation-related expenses that impact payroll taxes. The OSBA's recommended adjustment to APP and LTPP expenses include the estimated impact on payroll taxes. OSBA MB at 13.

5. ALJs' Recommendation

Consistent with our recommendation in subsection a. above, we recommend that PAWC's Payroll Costs, including Payroll Taxes, be adjusted to reflect the OCA's proposed adjustment, i.e., a 1.76% vacancy rate. This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

H. Insurance Other Than Group

1. PAWC's Position

PAWC states that OCA witness Smith proposes using a single data point – the HTY to FTY increase – in lieu of the five-year average PAWC employed to derive its FPFTY insurance other than group expense claim.[202] PAWC avers that in its last base rate case, it used a five-year average to smooth year-to-year variations, and that approach was not opposed by the OCA.[203] PAWC argues that using a five-year average continues to be the appropriate approach to smooth year-over-year variations, and, therefore, the Commission should reject the OCA's adjustment. PAWC MB at 25.

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[202] OCA St. 2, pp. 63-64.

[203] PAWC St. 5-R, p. 8.

2. OCA's Position

OCA witness Smith recommends an adjustment to Insurance Other Than Group expense using the actual percentage change from the test year ended June 30, 2023, rather than the Company proposed five-year average percentage change, which was calculated based on the 12-month periods from June 30, 2019, through June 30, 2023. The OCA states that while Mr. Smith generally agrees that averages can be used to normalize costs, consideration should also be given to trends and to current information. The OCA asserts that the annual percentage change for the 12-month ending periods of June 30, 2019, June 30, 2021, and June 30, 2022, were abnormally high or low as compared to the 12-month ending periods June 30, 2020, and the HTY ended June 30, 2023. The OCA states to ensure the reasonableness of this expense, it recommends that the HTY percentage change of 4.53% be used to calculate Insurance Other Than Group for the FPFTY. The OCA's adjustment reduces pre-tax operating income by $247,905 for Water, $34,694 for Wastewater SSS and $23,713 for CSS Wastewater.[204] OCA MB at 38-39.

3. ALJs' Recommendation

We recommend that the Commission adopt PAWC's position and use a five-year average to calculate PAWC's FPFTY claim for its insurance other than group expense. We agree with PAWC that this methodology is appropriate to smooth year-over-year variations.[205] Although the OCA asserts that the HTY percentage change should be used because the annual percentage change for the 12-month ending periods of June 30, 2019, June 30, 2021, and June 30, 2022, were abnormally high or low,[206] we find that it is because of these variations that it is appropriate to use an averaging methodology. Other than the OCA's characterization of three years of data as abnormal, there is no basis to find that use of the HTY percentage change would be more accurate than a result based on averaging.

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204 OCA St. 2, pp. 63-64; OCA St. 2SR, pp. 36-37.

205 *See* PAWC MB at 25.

206 *See* OCA MB at 38-39.

I. Uncollectible Expense (Rate of Net Write-Offs)

1. PAWC's Position

PAWC states that outstanding arrearages for PAWC's customers have stabilized from the significant increases during the peak of the COVID-19 pandemic, and the Company's net write-offs have been trending back toward pre-pandemic levels since mid-2021.[207] As a result, PAWC calculated its claim for bad debt (uncollectible) expense using a two-year historic average (July 1, 2021 to June 30, 2023) ratio of net write-offs as a percentage of sales revenues (1.176%) to normalize the rate of uncollectible accounts to pre-pandemic levels and account for the application of Low-Income Household Water Assistance Program ("LIHWAP") funds to reduce unpaid balances.[208] PAWC MB at 26.

PAWC states that, while OCA witness Smith's adjustment would have a minimal impact on revenue requirement, PAWC's approach of using a two-year percentage of net write offs, ended June 30, 2023, eliminates all impacts of the COVID-19 pandemic on customer collections activities and PAWC revenues, which occurred beginning with the moratorium on disconnects starting in March 2020 and continued through March 2021. PAWC avers that if the PUC wishes to maintain historical practice and utilize a three-year average rate to determine the level of uncollectible expense reflected in new base rates, the 12-months ended June 30, 2020, should be replaced with June 30, 2019, which excludes all periods impacted by the COVID-19 pandemic and produces an uncollectible rate (1.196%) that is 0.02% higher than PAWC's proposal.[209] PAWC MB at 26.

In its Reply Brief, PAWC states that OCA agrees that COVID-19 pandemic impacts should be eliminated from the historic average ratio of net write-offs used to determine

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[207] PAWC St. 8, pp. 3-6.

[208] *Id.* at 3-5.

[209] PAWC St. 8-R, pp. 3-4.

PAWC's rate allowance for uncollectible expense.[210] However, OCA witness Smith's proposed uncollectible rate of 1.164% is based on a three-year historic average that includes the March to June 2020 period when PAWC had several measures in place to help customers deal with the financial impact of the pandemic, including ceasing service terminations for non-payment.[211] PAWC states that for this reason, the OCA's proposed adjustment should be rejected. PAWC RB at 21.

2. OCA's Position

OCA witness Smith recommends using a three-year historic average ratio of net write-offs based on the 12 months ended June 30, 2020, 2022, and 2023, to calculate the going level uncollectibles expense. The OCA states this produces an uncollectibles write-off percentage of 1.164%.[212] The OCA avers that as Mr. Smith testified, it is reasonable and prudent to eliminate the impacts of the Covid-19 pandemic on customer collections; accordingly, the period July 1, 2020, through June 30, 2021, should not be used in the calculation of going level Uncollectibles Expense.[213] For the 12-months ended June 30, 2021, the uncollectibles annual write-off percentage calculates to 0.548% whereas for the 12-month period ended June 30, 2020, the annual write-off percentage of 1.135% is consistent with the write-off percentages shown for the 12-months ended June 30, 2022, and June 30, 2023. The OCA asserts that consequently, averaging the annual write-off information using the 12 months ended June 30, 2020, 2022, and 2023, appears to be reasonable in the context of the current PAWC rate case.[214] The OCA's adjustment reduces claimed Uncollectibles Expense by $100,054 for Water, by $11,591 for

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210 OCA MB at 39.

211 *Id.*; *see also* PAWC St. 8, pp. 3-5.

212 OCA St. 2, pp. 54-56; OCA St. 2SR, pp. 32-34.

213 OCA St. 2, p. 55; OCA St. 2SR, p. 33.

214 OCA St. 2, pp. 55-56; OCA St. 2SR, pp. 33-34.

Wastewater SSS, and by $9,547 for CSS Wastewater (and by $1,438 for BASA wastewater).[215] OCA MB at 39-40.

3. ALJs' Recommendation

We recommend that the Commission adopt PAWC's position and calculate its claim for bad debt (uncollectible) expense using a two-year historic average (July 1, 2021 to June 30, 2023) ratio of net write-offs as a percentage of sales revenues.[216] PAWC avers that the Company's net write-offs have been trending back toward pre-pandemic levels since mid-2021.[217] Therefore, we agree with PAWC that its use of a two-year percentage of net write offs better eliminates the impacts of the COVID-19 pandemic on customer collections activities and PAWC revenues.[218] Although the OCA argues that the 12 months ending June 30, 2020 should also be included in the averaging,[219] we agree with PAWC that this period should be excluded because it contains data from March to June 2020, which would reflect impacts from COVID-19.[220]

J. Arrearage Management Plan ("AMP") Credits – Uncollectible Expense

1. PAWC's Position

PAWC's Miscellaneous Expense Adjustment included costs related to the AMP that was pending before the Commission at the time of the initial base rate filing and later approved on December 7, 2023, at Docket No. P-2021-3028195. The total cost of arrearage

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215 OCA St. 2, pp. 54-55.

216 *See* PAWC MB at 26.

217 PAWC St. 8, pp. 3-6.

218 *See* PAWC MB at 26.

219 *See* OCA MB at 39-40.

220 *See* PAWC RB at 21.

forgiveness is based on the average number of BDP customers in the HTY with arrears multiplied by the annual AMP credits, assuming a 100% participation rate.[221] PAWC MB at 27.

OCA witness Colton recommends a reduction in AMP credit cost recovery from PAWC's proposed $2,377,200 to $214,728, arguing that the Company's projected AMP participation level should reflect how many BDP customers make payments in a "full and timely" fashion.[222] PAWC argues that Mr. Colton incorrectly assumes, however, that timely payments are required for a customer to be eligible for credits under the AMP. As Ms. Everette explained, the requirement for arrearage forgiveness is that the customer make an in-full payment of current charges plus a $5 copay.[223] PAWC states that therefore, Mr. Colton's concern regarding timely payment behavior is without basis. Importantly, as explained by PAWC witness O'Malley, if AMP expense is lower than the Company has projected in this case, the difference will be recorded to a regulatory liability and returned to customers in a future base rate case.[224] PAWC MB at 27.

In its Reply Brief, PAWC states that in its Main Brief,[225] OCA continues to propose its original expense reduction but conveniently fails to mention the "step one" adjustment representing the vast majority of its total adjustment or address Ms. Everette's sound rebuttal to OCA's methodology. PAWC asserts that as explained in its Main Brief,[226] the PUC should reject OCA's proposed reduction as unsupported. PAWC states that importantly, if the AMP credits are lower than PAWC has projected in this case, the difference will be recorded to a regulatory liability and returned to customers in a future base rate case.[227]

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[221] PAWC St. 5, p. 26; PAWC St. 5-R, p. 8.

[222] OCA St. 5, pp. 124-26; OCA St. 5-SR, pp. 25-27.

[223] Tr. 1977.

[224] PAWC St. 5-R, pp. 8-9.

[225] OCA MB at 40.

[226] PAWC MB at 27.

[227] PAWC MB at 27; PAWC St. 5-R, pp. 8-9.

2. OCA's Position

The OCA argues that PAWC's addition of dollars to uncollectibles to reflect AMP credits should be reduced by the percentage of BDP dollars already historically included in uncollectibles.[228] This adjustment reduces overall FPFTY uncollectibles expense by $2.162 million in account 670.7 related to the Company's proposed AMP. The OCA states that with this adjustment, account 670.7 should reflect the amount of $214,728 for the AMP-related uncollectibles expense, rather than $2,377,200 as proposed by PAWC.[229] This adjustment reduces pre-tax operating expenses by $1.848 million for Water, $150,724 for Wastewater SSS, and $113,746 for CSS Wastewater (and $39,573 for BASA wastewater). The OCA asserts that this adjustment is necessary to eliminate PAWC's double-recovery of dollars added to uncollectibles to reflect AMP credits where those dollars are already historically included in uncollectibles for the BDP.[230] OCA MB at 40.

The OCA states that its position is consistent with the Further Amended Joint Petition for Full Settlement of the Arrearage Management Plan,[231] that provided that the cost recovery issues were to be "addressed in a future rate case." The Settlement thus provided that PAWC could "propose a dollar amount" which could be disputed by OCA and which, accordingly, would be "subject to review and approval by the Commission."[232] OCA MB at 40.

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228 OCA St. 2SR, p. 48.

229 OCA St. 2, pp. 73-74.

230 OCA St. 5, pp. 7, 127; OCA St. 5SR, p. 27.

231 S*ee Petition of Pennsylvania American Water Co. for Approval of an Arrearage Management Plan* (On Remand), Docket No. P-2021-3028195 (Order entered Dec. 7, 2023).

232 OCA St. 5SR, pp. 26-27.

3. ALJs' Recommendation

We recommend that the Commission adopt the OCA's position and reduce PAWC's claimed expense for AMP credits.[233] We acknowledge PAWC's assertion that timely payments are not required for a customer to be eligible for credits under the AMP.[234] However, we agree with the OCA that it is not reasonable to assume that 100% of possible AMP credits will be earned each year.[235] Rather than assume 100% participation, OCA witness Colton more convincingly demonstrated that it is more likely that PAWC will experience an 11% participation rate based on historic BDP data.[236] Similarly, we agree with the OCA that PAWC's addition of dollars to uncollectibles to reflect AMP credits should be reduced by the percentage of BDP dollars already historically included in uncollectibles.[237] As PAWC witness Colton states, AMP arrears that are already included in rates to again be collected as AMP credits would allow PAWC to collect those costs as both past uncollectibles and AMP credits.[238] It is also notable that PAWC witness O'Malley asserts this expense will be recorded as a regulatory liability and amounts either under or over collected through rates in this case will be recovered or refunded in the next base rate case.[239]

PAWC allocated its AMP expense claim of $2,377,200 between its water, WW SSS, WW CSS, WW BASA, and WW Brentwood (WW BW) operations based on its proposed allocation factors.[240] The OCA used these same allocation factors to determine its adjustments

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[233] OCA St. 5, p. 123.

[234] PAWC MB at 27.

[235] *See* OCA St. 5, pp. 123-125.

[236] *See* OCA St. 5, pp. 123-125.

[237] *See* OCA St. 5, p. 125.

[238] *See* OCA St. 5-SR, p. 27.

[239] PAWC St. 5-R, pp. 8-9.

[240] PAWC Ex. 3-B, p. 336.

and allowable AMP expense.[241] Therefore, PAWC's AMP expense for Water, WW SSS, and WW CSS shall be reduced in a manner that is consistent with the OCA's calculations. This results in the proposed adjustments in Expenses for AMP identified in Table II Water, WW SSS, and WW CSS.[242] PAWC's AMP expenses allocated to WW BASA and WW BW are not included in allowable revenues.

K. Acquisition-Related Expenses

1. PAWC's Position

PAWC avers that I&E and the OCA's adjustments related to the BASA, AWC, Farmington, and Sadsbury acquisitions should be rejected for the reasons discussed in the Rate Base – Utility Plant-In-Service section of its Main Brief. PAWC MB at 27; PAWC RB at 22.

2. I&E's Position

I&E argues that it is not appropriate for the Company to claim and recover expenses for utilities that it does not own. Due to the uncertainty surrounding each of these acquisitions, I&E recommends disallowance of the entire claim. I&E MB at 27-28.

3. OCA's Position

The OCA argues that because claims associated with the not-yet-acquired property should be excluded from rate base, the Commission should, by extension, exclude all projected expenses related to the not-yet-acquired property, including acquisition expense, O&M expenses, and depreciation expense.[243] OCA MB at 41-42.

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[241] OCA St. 2; OCA Ex. LA-2, Sch. C-22.

[242] OCA St. 2; OCA Ex. LA-2, Sch. C-22
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[243] *UGI 2018* at 27-31, 79.

4. ALJs' Recommendation

Consistent with our recommendation above to exclude the identified Acquisitions from rate base, we recommend that the Commission exclude Acquisition-related expenses from PAWC's claim.[244] This results in the proposed adjustments in Expenses for AWC O&M & Taxes-Other, Farmington Expenses, Sadsbury O&M & Taxes-Other, and Farmington O&M detailed in Tables II, V, and VI for Water and WW SSS.

L. Interest Synchronization

1. PAWC's Position

PAWC's claim for income tax expense is set forth in PAWC Exhibit 3A-Revised and is based, in part, on an interest expense deduction calculated using the Company's proposed rate base and weighted cost of debt.[245] PAWC states that OCA witness Smith proposes an interest expense adjustment concomitant to the OCA's proposed adjustments to rate base and the weighted average cost of debt,[246] which should be rejected for the reasons set forth in Expenses and Rate Base sections of PAWC's Main Brief. PAWC MB at 28.

2. OCA's Position

OCA witness Smith multiplied the OCA's adjusted rate base by the weighted cost of debt included in the OCA recommended capital structure.[247] OCA witness Smith recommends an adjustment in the amount of $2,999,784. OCA MB at 42.

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[244] *See* I&E MB at 27-28.

[245] *See* PAWC Ex. 3-A Revised, pp. 72R-75R.

[246] OCA St. 2, pp. 61-62; OCA St. 2-SR, pp. 34-36.

[247] OCA St. 2, p. 61; OCA St. 2SR, pp. 34-36.

3. ALJs' Recommendation

Interest synchronization is used in ratemaking to determine the amount of interest expense to be used in the calculation of income tax. The adjustment ensures the tax-deductible interest expense for ratemaking is properly matched with the rate base and weighted cost of debt.[248] As PAWC acknowledges, the OCA's proposed interest expense adjustment is concomitant to the OCA's proposed adjustments to rate base and the weighted average cost of debt.[249] We agree that the tax-deductible interest expense for ratemaking is properly matched with the rate base and weighted cost of debt. As such, our recommendation will contain a concomitant interest synchronization adjustment as it relates to our recommended rate base adjustments as detailed in Table II Water, WW SSS, and WW CSS.

M. Amortization Expense

1. PAWC's Position

PAWC avers that for the reasons set forth in the Rate Base – Utility Plant-In-Service section of its Main Brief and Reply Brief, I&E, and the OCA's proposed adjustments to PAWC's amortization expense related to the AWC, BASA, Farmington and Sadsbury acquisitions should be rejected. PAWC MB at 28; PAWC RB at 22-23 .

2. I&E's Position

I&E reiterated its position on removing amortization expense for the Sadsbury and Farmington systems and negative plant acquisition adjustment, consistent with its position on Acquisition Adjustment and Amortization Expense presented in the Rate Base section of its briefs. I&E MB at 29-30.

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[248] OCA MB at 42.

[249] PAWC MB at 28.

3. OCA's Position

The OCA refers to Section VI.K of its Main Brief for the OCA's adjustments. OCA MB at 43.

4. ALJs' Recommendation

As PAWC acknowledges, I&E and the OCA's proposed adjustments are concomitant to their proposed exclusion of the Acquisitions.[250] Since we recommend that the Acquisitions be excluded, we similarly recommend that the Commission adopt I&E and the OCA's proposed adjustments to Amortization Expense. This results in the proposed adjustments in Depreciation for AWC Acq. Amort., Farmington Acq. Amort., and Sadsbury Acq. Amort., as detailed in Table II Water and WW SSS.

N. Call Center Expense

1. PAWC's Position

PAWC states that if it did not utilize third-party call handling agencies, the Company would incur additional expense for staffing increases to handle the call volumes previously answered by third-party contractors.[251] Therefore, the OCA's recommendation that an expense PAWC necessarily incurs to serve customers should be excluded for ratemaking purposes is inappropriate. PAWC MB at 28.

In its Reply Brief, PAWC states that the OCA has not offered any valid reason why the call center expense that PAWC necessarily incurs to serve customers should be disallowed simply because it asserts that PAWC's third-party call handling agencies are not

[250] PAWC RB at 22.

[251] PAWC St. 1-R, p. 22.

hitting performance metrics its witness Barbara R. Alexander believes should be imposed. PAWC RB at 23.

2. OCA's Position

The OCA recommends that the Commission disallow the FPFTY expense proposed by PAWC for account 634.8 of $2,475,869 for Transworld and $606,386 for InterLogix to eliminate expenses for the third-party call centers that have routinely failed to meet reasonable call performance standards.[252] The OCA states that the Commission should consider the evidence of PAWC's failure to ensure adequate performance by third-party call centers that have routinely failed to meet reasonable call performance standards for PAWC's customers. The OCA avers that actual performance of the third-party call centers in answering calls is below the performance of the corporate call centers operated by Service Company employees.[253] The OCA states that PAWC has ignored the evidence of the actual poor performance of its third-party call centers compared to Service Company call operations and refuses in this proceeding to make any changes in its current call center contracts.[254] The OCA concludes that expenses for the use of the contractors who are allowed to perform at less than reasonable levels below PAWC's in-house call centers is imprudent and unreasonable and should be disallowed.[255] OCA MB at 43.

3. ALJs' Recommendation

We recommend that the Commission reject the OCA's proposed adjustment to Call Center Expense for third-party call centers. OCA witness Alexander asserts that the performance of third-party call centers is below that of the call centers operated by PAWC's

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[252] OCA St. 2, p. 73; OCA St. 2SR, p. 48.

[253] OCA St. 6SR, p. 9.

[254] OCA St. 6, p. 20; OCA St. 6SR, pp. 9-10; PAWC St. 9R, pp. 15-16.

[255] OCA St. 6SR, p. 10; *Popowsky v. Pa. PUC*, 674 A.2d 1149, 1154 (Pa. Cmwlth. 1996) at 1154; 66 Pa.C.S. § 523.

affiliated Service Company.[256] We are not persuaded that an adjustment to Call Center Expense is merited. Although the OCA's proposed adjustment is only for third-party call centers, the concerns outlined by the OCA also extend to PAWC's own call centers as operated by the Service Company.[257] It is not clear to us from the evidence cited by the OCA that the performance of the third-party call centers is so egregious compared to the performance by the Service Company to merit disallowance of the associated expense claim. As PAWC witness Alexander explains, third-party call center agents are trained with the same materials as internal call center employees.[258] It is unclear how eliminating PAWC's claim related to third-party call centers will provide the improved service sought by the OCA if PAWC's own call centers are managed similarly. Therefore, we are not persuaded that eliminating the expense related to third-party call centers will improve PAWC's call center activities.

O. Depreciation Expense

1. PAWC's Position

OCA witness Smith's proposed adjustments to depreciation expense concomitant to his objections to service life/survivor curves employed in the depreciation studies prepared by Mr. Spanos are addressed in the Rate Base – Depreciation Reserve section of its Main Brief. PAWC MB at 29.

In its Reply Brief, PAWC states that, setting aside depreciation expense adjustments associated with acquisitions, the OCA is the only party recommending an adjustment to depreciation expense. As explained in PAWC's Main Brief,[259] Company witness John J. Spanos, President of Gannett Fleming Valuation and Rate Consultants, LLC ("Gannett Fleming"), utilized PUC-approved methods and PAWC's most recent service life studies when

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256 PAWC St. 6, p. 20; PAWC St. 6-SR, pp. 9-10.

257 PAWC St. 6, pp. 19-26.

258 PAWC St. 9-R, p. 6.

259 PAWC MB at 17-19.

determining the annual depreciation accruals. PAWC avers that OCA witness Smith's objection is not based on Mr. Spanos's *methods* – it is based on *outcomes* for a handful of cherry-picked plant accounts that Mr. Smith believes are unfavorable. Specifically, Mr. Smith only objects to the depreciation analysis for accounts where the service lives were determined to be shorter than Mr. Smith expected.[260] PAWC states that Mr. Smith's general preference for longer service lives and lower depreciation expense, however, is not a proper basis to reduce the Company's claim. PAWC asserts that the service lives and depreciation expense for *all* accounts were properly determined utilizing the most current and complete information available.[261] PAWC RB at 23-24 (emphasis in original).

2. I&E's Position

I&E states that its only depreciation expense adjustment is discussed in the "Annual Depreciation Expense" portion of its Main Brief. I&E MB at 30.

3. OCA's Position

The OCA states that as a general matter, the shorter the useful life, the higher the depreciation expense, and hence the higher the revenue requirement.[262] The OCA avers that in its initial filing, PAWC proposed drastically shortened useful lives for certain water plant, which was a major change from PAWC's last rate case at Docket No. R-2022-3031673 and PAWC did not justify the shortening in its initial filing.[263] OCA MB at 43.

The OCA argues that PAWC has not affirmatively demonstrated the need or reasonableness to use shorter useful lives that increase PAWC's depreciation expense. The OCA states that the water utility acquisitions that occurred since the 2016 study included two Section

260 OCA MB at 43-44.

261 PAWC MB at 17-19; PAWC St. 11-R, pp. 5-10.

262 OCA St. 2SR, p. 43.

263 OCA St. 2, pp. 64-66; OCA Ex. LA-2, Sch. C-17.

1329 acquisitions, Steelton Borough Authority and Valley Township Water. The OCA notes that PAWC's appraiser in the Valley Township Section 1329 case, at Docket No. A-2020-3019859, used the useful lives that are recommended by the OCA in this case.[264] OCA MB at 44.

4. ALJs' Recommendation

Consistent with our recommendation above to adopt PAWC's position on Depreciation Reserve for Rate Base and I&E's and OCA's positions for Annual Depreciation Expense for Rate Base, we recommend that the Commission reduce PAWC's claim for Depreciation Expense to remove annual depreciation expense for the AWC, Sadsbury, and Farmington systems. This results in the proposed adjustments in Depreciation for AWC Depreciation, Farmington Depreciation, and Sadsbury Depreciation detailed in Table II Water and WW SSS.

P. Pension and Other Post Employment Benefits ("OPEB") Expense (and Request for Deferred Regulatory Accounting Treatment)

1. PAWC's Position

PAWC states that although WTW uses sound, well-established actuarial methods, the pension and OPEB costs that it calculates are subject to material change based on a variety of economic and demographic variables described by PAWC witness Swiz that are outside the Company's control.[265] Therefore, PAWC is asking for Commission permission to defer and record any amounts above or below the projected level of pension and OPEB expenses into regulatory asset or liability accounts until its next base rate proceeding.[266] PAWC MB at 29-30.

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[264] OCA St. 2SR, pp. 38-39; OCA St. 2SR, pp. 39-43.

[265] PAWC St. 8, pp. 10-14.

[266] *Id.* at 10-11, 15.

PAWC argues that the Commission regularly authorizes utilities to defer costs for accounting purposes arising from events that are unanticipated and outside the utility's control to provide the utility an opportunity to claim those costs for recovery in a future rate proceeding.[267] Notably, as shown by Mr. Swiz's comparative analysis of PAWC's authorized and actual levels of pension and OPEB expenses, from 2012 through 2022 customers would have realized a net *benefit* of approximately $58 million for a pension deferral and $46 million for an OPEB deferral.[268] PAWC argues that in short, deferred accounting authorization is a fair way to ensure customers and PAWC only bear *actual* costs incurred for pension and OPEB expenses.[269] PAWC MB at 30-31 (emphasis in original).

PAWC states that I&E witness Okum recommends using a three-year historic average of actual pension and OPEB costs to establish the allowance for ratemaking purposes, asserting that such approach will account for normal fluctuations in those costs between rate cases.[270] PAWC asserts that as Mr. Swiz explained, however, the use of historic information does not inform how future pension and OPEB costs will be recorded, because economic and

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267 *See, e.g.*, *Petition of Pa.-American Water Co. for Auth. to Defer and Record as Regulatory Assets for Future Recovery: (1) Incremental Expenses Incurred Because of the Effects of the COVID-19 Emergency; (2) Revenue Reductions Attributable to the Effects of the COVID-19 Emergency; and (3) Carrying Charges on the Amounts Deferred*, Docket No. P-2020-3022426, pp. 12-13, 30-32, 42, 49-50 (Opinion and Order entered Sept. 15, 2021) (approving deferral of COVID-19–related financial impacts); *Petition of Pa.-American Water Co. for Auth. to Defer Expenses Incurred to Pay New Regulatory Fees Imposed by the Pa. Dep't of Envtl. Prot.*, Docket No. P-2019-3008253, pp. 3-4 (Opinion and Order entered May 9, 2019) (approving deferral of $840,000 of expenses incurred for new annual fees imposed by the PaDEP); *Petition of Pa.-American Water Co. for Auth. to Defer for Accounting and Financial Reporting Purposes Expenses Relating to a Water Customer Class Demand Study*, Docket No. P-2012-2308982 (Opinion and Order entered Aug. 20, 2012) (approving deferral of $463,000 in expenses related to a demand study agreed to in settlement of PAWC's 2011 rate case); *Petition of Columbia Gas of Pa., Inc. for Auth. to Defer, for Accounting Purposes, Certain Costs Associated With A Regulatory Asset Related to Other Post-Retirement Benefits Provided by NiSource Corporate Serv. Co.*, Docket No. P-2011-2275383 (Opinion and Order entered May 24, 2012) (approving deferral of $903,000 expenses related to an accounting change for certain retirement-related management fees paid to an affiliate); *Petition of the Newtown Artesian Water Co. for Permission to Defer and Record Unrecovered Purchased Water Costs*, Docket No. P-2010-2211420 (Opinion and Order entered June 1, 2011) (approving deferral of unrecovered purchased water costs totaling $351,929 related to rate increases implemented by the Bucks County Water and Sewer Authority in between rate cases); *Petition of Citizens Utils. Water Co. of Pa.*, Docket No. P-00930746 (Order entered Feb. 25, 1994) (approving deferral of SFAS 106 costs); *Pa. Pub. Util. Comm'n v. Consumers Pa. Water Co. – Roaring Creek Div.*, Docket No. R-932655 (Order entered Feb. 3, 1994) (same).

268 PAWC St. 8, pp. 15-17; PAWC St. 8-R, pp. 4-5; PAWC Ex. JCS-1R; Tr. 2004-06.

269 PAWC St. 8, pp. 11-12; PAWC St. 8-R, pp. 4-5.

270 I&E St. 1, p. 23; I&E St. 1-SR, pp. 20-24
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demographic variables change each year, which makes each annual actuary report unique and independent of prior year projections. In fact, a rate allowance calculated using a three-year historic average, as Ms. Okum proposes, rather than actuarial forecasts would result in *larger* variances between the annual amount of pension and OPEB expenses reflected in base rates and the actual level of expenses PAWC incurs.[271] PAWC MB at 31-32.

In its Reply Brief, PAWC states that I&E, the OCA, and PAWLUG's opposition to PAWC's proposed deferral mechanisms boils down to two basic arguments: (1) pension and OPEB expenses are normal and recurring costs that do not fall within the scope of the PUC's exception to the prohibition against retroactive ratemaking and (2) deferred accounting treatment will somehow guarantee recovery of those expenses without any review of prudency and reasonableness in a base rate case.[272] PAWC asserts that neither argument is valid. PAWC RB at 25.

PAWC states that while I&E asserts that pension and OPEB costs are "routine" expenses incurred by all utilities, the extraordinary nature of a cost is determined by the event that triggers it.[273] As explained in PAWC's Main Brief,[274] the pension and OPEB costs forecasted by PAWC's actuary are subject to material change based on a myriad of factors outside of the Company's control and are precisely the types of costs the Commission authorizes utilities to defer. PAWC RB at 25.

2. I&E's Position

I&E recommends that the proposed pension and OPEB tracker be denied.[275] Typically, the Commission has permitted extraordinary, unanticipated, non-recurring, and

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[271] PAWC St. 8-R, pp. 6-8; Tr. 2004-06.

[272] *See* I&E MB at 31-32; OCA MB at 45-46; PAWLUG MB at 7-8.

[273] *E.g., Popowsky v. Pa. Pub. Util. Comm'n*, 868 A.2d 606, 612 (Pa. Cmwlth. 2004).

[274] PAWC MB at 29-31.

[275] I&E St. 1, p. 20.

substantial expenses to be deferred for accounting purposes. Examples of these types of costs include those costs to make repairs in order to avoid and imminent threat to public health and safety, hurricane damage, and across the board accounting changes that would have a significant financial impact on a utility.[276] The Commission has stated "the standard which a utility must meet when seeking Commission authorization for deferral accounting is whether, based on Commission precedent, the expense item appears to be within the scope of the type of items that the Commission has allowed as an exception to the general rule against retroactive recovery of past expense."[277] Deferred accounting treatment may be granted is the expense is: 1) extraordinary; 2) unanticipated; 3) non-recurring; and 4) substantial.[278] In *Popowsky v. Pennsylvania Public Utility Commission*, it was noted that:

> Extraordinary cannot mean merely unanticipated, because then every unexpected occurrence or failure to predict an item would be recoverable and the exception would overwhelm the rule, making test years meaningless. To be extraordinary, it must also be a substantial, one-time expense or a substantial item that will not appear as a continuing expense and could otherwise never be recovered in rates because, like the weather-related expenses, it would be normalized out of the test year as abnormal.[279]

I&E argues that while these costs have sometimes been substantial in the past, the costs are not extraordinary because pension and OPEB costs are routine expenses incurred by PAWC as well as many other water and wastewater utilities. These expenses are not one-time expenses and occur year after year. I&E asserts that the costs are not unanticipated because they are a part of contractual agreements with past employees. Finally, I&E states that the expenses cannot be

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276 *Petition of Pennsylvania Util. Co., Inc.*, 2012 Pa.P.U.C. LEXIS 1124, at 2-3 (2012); *see also Petition of Pike County Light and Power Co.*, 2012 Pa.P.U.C. LEXIS 939 at 5-6 (2012); *Petition of Columbia Gas of Pa. Inc.*, 2012 Pa.P.U.C. LEXIS 836 (2012).

277 *Petition of Columbia Gas of Pa., Inc. for Authority to Defer for Accounting and Financial Purposes Certain Start Up Expenses Assoc. with the Redesign of Upgrade of Financial Processes and Info. Systems*, Docket No. P-2012-2319920 (Opinion and Order entered Dec. 5, 2012).

278 *Id.*

279 *Popowsky v. Pa. Publ. Util. Comm'n*, 642 A.2d 648, 652 (Pa. Cmwlth. 1994).

categorized as non-recurring while also being forecasted on an annual basis. I&E concludes that as the Company's pension and OPEB expenses may have only met one of four criteria to be considered for regulatory asset treatment, it is not appropriate for the Commission to grant approval for the Company to defer these costs. I&E MB at 31-32.

I&E recommends a negative allowance of ($3,800,736) for pension expense, or reduction of $3,822,954 [$22,218 - ($3,800,736)] to the Company's FPFTY claim for Water Operations.[280] This recommendation is based on a three-year average of historic actuals for pension expense.[281] I&E asserts the Company continues this approach in future base rate proceedings it will allow the expense to normalize over time and address PAWC's concern about over-recovery of pension expense without the need for a tracker. I&E MB at 33.

I&E asserts that Mr. Swiz's objection to I&E's recommended negative allowance is incorrect for several reasons. First, Mr. Swiz is falsely characterizing the Company's forecasted amounts as an "authorized expense" as the Company's recent cases (at least the past three cases at Docket Nos. R-2017-2595853, R-2020-3019369, and R-2022-3031672) have all resulted in settlement with no specific monetary value assigned to pension expense. I&E states that therefore, the variance column in the tables[282] presented by PAWC witness Swiz are void as a comparison because the applicable rates in each period were not calculated based on this number. I&E states that second, I&E witness Okum was unable to verify the data presented in Mr. Swiz's analysis and takes issue specifically with the data presented for the year 2022 as there was no rate change in that year. I&E avers that finally, per its base rate case settlement, the Company switched to the accrual accounting method for ratemaking purposes to calculate its pension expense claims in 2018.[283] Consequently, the data prior to that year is not relevant to this analysis. I&E MB at 34.

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280 I&E St. 1, p. 22

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281 I&E Ex. 1, Sch. 4.

282 PAWC St. 8-R, p. 7.

283 *Pa. Pub. Util. Comm'n v. Pa. Am. Water Co.*, Docket No. R-2017-2595853, Joint Petition for Settlement, paragraph 17, p. 8 (Order entered Dec. 7, 2017).

Additionally, in PGW's 2023 base rate case (*PGW 2023)* the Commission adopted a three-year normalization of rate case expense.[284] Therefore, I&E continues to recommend using a three-year average of historic actual expenses for pension based on the evidence presented and relevant case law. I&E MB at 34.

The Company is claiming OPEB expense of ($5,817,327) for Water Operations, $9,810 for Wastewater SSS Operations, and $32,234 for Wastewater CSS Operations in the FPFTY.[285] I&E witness Okum disagrees with the Company's claim and recommends the use of a historical three-year average for OPEB expense. This results in a reduction of $1,664,016 [($8,160,753) - ($6,496,737)] to the Company's FPFTY claim.[286] This was an update to Ms. Okum's position in Direct testimony as a result of the Company's updates FPFTY claim in Rebuttal testimony wherein the Company's claim was updated from $(5,817,327) to $(6,496,737)[287] to account for the 2024 actuarial report furnished for the Company by Willis Towers Watson. Ms. Okum did not address the OPEB claims for Wastewater SSS Operations or Wastewater CSS Operations since these claims are made up entirely of $600 contributions per union employee for those who are not eligible for retiree medical benefits under the OPEB plan.[288] I&E MB at 35.

I&E argues that using the three-year historical average as Witness Okum recommends will allow the expense to normalize over time and address any concerns about over-recovery without the need for a tracker. I&E asserts the approach recommended by I&E witness Okum is consistent with prior Commission determinations. In the 2023 PGW Base Rate Case (*PGW 2023)* the Commission stated, "…similar to PGWs pension expense claim, a three-year

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[284] *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. R-2023-3037933, p. 883 (Opinion and Order entered Nov. 9, 2023).

[285] PAWC Ex. 3-A, pp. 51, 116, 236.

[286] I&E St. 1-SR, p. 26.

[287] PAWC Ex. 3-A Revised, p. 51R.

[288] I&E St. 1. pp. 24-25.

normalization of the Company's claim for OPEB expense is appropriate."[289] In addition, in a recent PECO Gas base rate Case (*PECO Gas 2021*) the Commission agreed with the use of a three-year average of OPEB expense.[290] I&E concludes that the evidence and relevant case law demonstrate that a three-year average for OPEB expense is the appropriate measure. Therefore, I&E witness Okum's recommendation should be adopted. I&E MB at 35-37.

3. OCA's Position

The OCA refers to Section VI.Q of its Main Brief regarding Production Expense for the OCA's adjustments. OCA MB at 44.

4. PAWLUG's Position

PAWLUG states that while the Commission is authorized to consider alternative ratemaking mechanisms filed pursuant to Act 58 of 2018, the general rule remains that single issue ratemaking is disfavored.[291] PAWLUG asserts that the Commission precedent prohibits single-issue ratemaking if it "impacts on a matter that is normally considered in a base rate case."[292] PAWLUG witness LaConte testified that PAWC's proposed OPEB, pension, and production deferral mechanisms are examples of single-issue ratemaking.[293] Ms. LaConte expressed concern that this type of single-issue ratemaking "ignores the impact of any offsetting over recovery for other costs, which, thereby, negates the need for the deferral mechanism.[294] PAWLUG MB at 7-8.

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289 *Pa. Pub. Util. Comm'n. v. Phila. Gas Works,* Docket No. R-2023-3037933, p. 86 (Opinion and Order entered Nov. 9, 2023).

290 *Pa. Pub. Util. Comm'n v. PECO Energy Co. – Gas Div.,* Docket No. R-2020-3018929, p. 90 (Opinion and Order entered June 22, 2021).

291 *Pub. Util. Comm'n. v. Phila. Gas Works*, Docket No. P-00042090, p. 7 (Order entered July 8, 2004).

292 *Pa. Indus. Energy Coalition v. Pa. Pub. Util. Comm'n.,* 653 A.2d 1336, 1350 (Pa. Cmwlth. 1995).

293 PAWLUG St. 1, p. 19.

294 *Id*.

5. ALJs' Recommendation

We recommend that the Commission reject PAWC's proposal to defer and record any amounts above or below the projected level of pension and OPEB expenses into regulatory asset or liability accounts until its next base rate proceeding. We agree with I&E that pension and OPEB costs are not extraordinary, unanticipated, or non-recurring, and therefore should not qualify for regulatory asset treatment.[295] Similarly, we agree with the OCA and PAWLUG that allowing deferred recovery of routine costs would raise concerns of impermissible single-issue ratemaking.[296]

We also recommend that the Commission accept I&E's proposed adjustments to pension and OPEB expenses based on a three-year historical average.[297] As I&E notes, the Commission has recently favored adopting three-year averaging in calculating Pension and OPEB expenses.[298] Although PAWC argues its claim is based on actuarial projections,[299] as the Commission noted, "prior expenses and the variability of the year-to-year expense balances should be taken into consideration."[300] We find that I&E adequately demonstrated the variability of PAWC's historic pension and OPEB costs and that the claims for such costs in this rate case should be based on averaging.[301] This results in the proposed adjustments in Expenses for Pension Expense and OPEB Expense detailed in Table II Water.

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295 *See* I&E MB at 31-32.

296 *See* OCA MB at 44-45; PAWLUG MB at 7-8.

297 *See* I&E MB at 33-35.

298 I&E MB at 36 (citing *Pa. P.U.C. v. PGW*, Docket No. R-2023-3037933, p. 86 (Order entered November 9, 2023) and *Pa. P.U.C. v. PECO Energy Co. – Gas Division*, Docket No. R-2020-3018929, p. 90 (Order entered June 22, 2021)).

299 PAWC MB at 31-32.

300 *PGW 2023* at 86.

301 I&E St. 1, pp. 21-25; I&E St. 1-SR, pp. 20-26.

Q. Production Expense (and Request for Deferred Regulatory Accounting Treatment)

1. PAWC's Position

PAWC states that the Company's production expenses can materially increase or decrease based on volatility in the prices charged by suppliers due to market conditions that are outside the control of PAWC and its suppliers.[302] For example, the chemical market was extremely volatile in 2022 and 2023 compared to historical levels, driven by many factors such as impacts from the COVID-19 pandemic, the conflict in Ukraine, and inflationary growth in commodity prices.[303] PAWC states that likewise, energy market prices are higher than they have been in many years, and as a result, PAWC's electric generation suppliers have increased contract rates for power supply and are less willing to lock in prices for 12-month terms.[304] PAWC avers that its proposed accounting deferral for production expenses would protect both the Company and customers against this volatility. PAWC MB at 32-33.

PAWC states that moreover, as PAWC witness Swiz pointed out, energy utilities in Pennsylvania (and numerous other states) are afforded the opportunity to adjust rates for variations in gas commodity or electric fuel and transmission costs between rate cases.[305] PAWC argues that such automatic adjustment clauses are explicitly authorized in Pennsylvania by Section 1307 of the Code. PAWC states that although no specific statute applies to PAWC's production cost recovery, the same ratemaking principles that justify those Section 1307 mechanisms apply to PAWC's recovery of production costs. PAWC concludes that the PUC should afford deferred accounting treatment to PAWC for production expenses. PAWC MB at 33.

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302 PAWC St. 8, pp. 17-21.

303 *Id.* at 18-19.

304 *Id.*

305 PAWC St. 8, pp. 18-19; PAWC St. 8-R, pp. 5-6.

In its Reply Brief, PAWC reiterates that the opposing parties ignore the ways in which PAWC's production costs closely resemble the kinds of costs that the PUC has authorized Pennsylvania energy utilities to recover under Section 1307 (e.g., purchased fuel and power). Those costs share a common characteristic with PAWC's production expenses that justify commensurate accounting treatment – changes in supplier prices that are beyond the utility's control. PAWC RB at 26.

2. I&E's Position

For largely the same reasons as described related to the Pension and OPEB tracker, I&E recommends denial of the Companies' proposed Production Expense Tracker. I&E argues that the expenses in question are not extraordinary, unanticipated, or non-recurring, and while in some instance they may be substantial expenses they do not meet the requirements to be deferred for accounting purposes. I&E MB at 37-38.

Unlike Pension and OPEB expense, I&E did not make an adjustment to production expense in this case.[306] I&E MB at 38.

3. OCA's Position

The OCA opposes PAWC ancillary requests for Commission approval of deferred regulatory accounting treatment for (1) pension and OPEB expenses, and (2) production expenses, for recovery in a future rate case. The OCA asserts that PAWC has not met its burden to demonstrate that these accounting mechanisms are necessary or just and reasonable. The OCA states that moreover, the requested treatments of isolated expenses for deferred recovery in future base rate cases are squarely impermissible single-issue ratemaking.[307] The OCA avers that single-issue ratemaking is similar to retroactive ratemaking and, in general, is prohibited if it impacts on

[306] I&E St. 1, p. 33.

[307] *See Nat'l Fuel Gas Dist. Corp. v. Pa. Pub. Util. Comm'n*, 464 A.2d 546, 567 (Pa. Cmwlth. 1983); *see also Phila. Elec. Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 722, 727-28 (Pa. Cmwlth. 1985.

a matter that is normally considered in a base rate case.[308] The OCA states that here, PAWC's requests are distinguishable from that approved in *PIEC* which affirmed the Commission's authority to allow a Section 1307 surcharge, because this is a base rate case and PAWC is asking for specific deferred accounting treatment and future recovery of line-item expenses that get addressed in base rate cases.[309] OCA MB at 44-45.

In the its Reply Brief, the OCA argues that isolating and tracking the Pension and OPEB expenses as well as Production costs for eventual recovery via a special rate recovery mechanism or in future base rates, runs counter to a fundamental principle of ratemaking – that a utility should be afforded the <u>opportunity</u> to recover its costs of providing service but not guaranteed such recovery.[310] The OCA states that this is particularly so for PAWC in this case given that the Company is utilizing a FPFTY that anticipates the Company's <u>future</u> costs of providing service.[311] The OCA asserts that deferrals of fluctuations in one particular cost or cost category in isolation from all other cost fluctuations is by definition single-issue ratemaking because it focuses only on one cost or a single group of costs, typically where the utility expects such costs to increase, and ignores fluctuations between rate cases in other costs.[312] OCA RB at 28 (emphasis in original).

4. OSBA's Position

The OSBA recommends that PAWC's request for deferred accounting treatment for its production expenses be denied. The OSBA asserts that utility management should be expected to cope with normal business risks and the operation of economic forces, without

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[308] *Pa. Indus. Energy Coalition v. Pa. Pub. Util. Comm'n*, 653 A.2d 1336, 1350 (Pa. Cmwlth. 1995), *aff'd*, 543 Pa. 307, 670 A.2d 1152 (1996) (*PIEC*).

[309] *Id*.

[310] OCA St. 2SR, p. 51.

[311] OCA St. 2SR, p. 51.

[312] OCA St. 2SR, p. 51.

resorting to single-issue ratemaking, such as the requested deferred accounting treatment, except in circumstances of compelling public interest.[313] OSBA MB at 13.

5. PAWLUG's Position

PAWLUG referenced its argument regarding Pension and OPEB expense. PAWLUG MB at 8.

6. ALJs' Recommendation

We recommend that the Commission reject PAWC's proposal to afford deferred accounting treatment to PAWC for production expenses. We agree with I&E that production costs are not extraordinary, unanticipated, or non-recurring, and therefore should not qualify for regulatory asset treatment.[314] Similarly, we agree with the OCA and PAWLUG that allowing deferred recovery of routine costs would raise concerns of impermissible single-issue ratemaking.[315]

R. Miscellaneous Expense Adjustment – Credit Card and E-check Fees

1. I&E's Position

I&E witness Okum determined there was a discrepancy in the Company's claim for credit card and e-check fees.[316] The Company acknowledges that PAWC Exhibit 3-B shows the correct amounts. PAWC witness Lori O'Malley states that the adjustment reduces the Company's original claim for miscellaneous expense by $182,738.[317] She points to PAWC

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313 OSBA St. 1, pp. 47-48.

314 *See* I&E MB at 37-38.

315 *See* OCA MB at 44-45; PAWLUG MB at 7-8.

316 I&E St. 1-R, p. 4.

317 PAWC St. 5-R, p. 7

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Exhibit 3-A Revised, p. 64R where the change is reflected in the revised filing and to PAWC Exhibit LNO-4R for supporting calculations. As a result, this should be reflected in the ALJs' Recommended Decision and the Commission's final Order in this proceeding.

2. ALJs' Recommendation

PAWC accepted I&E's proposed adjustment to Miscellaneous Expense Adjustment – Credit Card and E-check Fees.[318] Accordingly, we recommend that PAWC's Miscellaneous Expense for Credit Card and E-check Fees be adjusted to reflect I&E's proposed adjustment, i.e., reducing the claimed expense by $182,738. This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

S. Service Company Executive Retirement Plan Expense

1. OSBA's Position

OSBA recommended an adjustment to remove the Service Company Executive Retirement Plan (i.e., "SERP") expense, decreasing the FPFTY revenue requirement by approximately $35,106 in total.[319] PAWC's rebuttal testimony stated that the Company would remove the SERP expense from the revenue requirement. OSBA MB at 13.

2. ALJs' Recommendation

We recommend that the Commission remove PAWC's claim for Supplemental Executive Retirement Plan costs. The OSBA recommended an adjustment to remove this

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[318] PAWC St. 5-R, p. 7.

[319] OSBA St. 1, p. 15.

expense,[320] which PAWC accepted.[321] This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

T. External Board Expense

1. OSBA's Position

OSBA recommended an adjustment to remove External Board expense based on PAWC's stated plans to eliminate its External Board. This adjustment decreases the FPFTY revenue requirement by approximately $126,792 in total.[322] PAWC's rebuttal testimony stated that the Company would remove the External Board expense.[323] OSBA MB at 13.

2. ALJs' Recommendation

We recommend that the Commission remove PAWC's claim for External Board costs. The OSBA recommended an adjustment to remove this expense,[324] which PAWC accepted.[325] This is reflected in the Company Adjustments column in Table I Water, WW SSS, and WW CSS, since PAWC adopted this adjustment to its initial claims in rebuttal.

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[320] OSBA St. 1, p. 15.

[321] PAWC St. 5-R, p. 6.

[322] OSBA St. 1, p. 16
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[323] OSBA St. 1-S, p. 6.

[324] OSBA St. 1, p. 16.

[325] PAWC St. 5-R, p. 7.

IX. <u>TAXES</u>

1. PAWC's Position

PAWC states that its claims for Federal and State income taxes are described by Company witness Melissa Ciullo in PAWC St. 7. No party disputes the manner in which PAWC calculated its federal and state income taxes. PAWC MB at 33.

2. I&E's Position

I&E states that it made no specific recommendations related to adjustments to taxes. Any such adjustments would simply be the result of the flow-through of other I&E adjustments. As noted by I&E witness Okum, "[a]ll adjustments to the Company's claims for revenues, expenses, taxes, and rate base must be continually brought together in the Administrative Law Judge's Recommended Decision and again in the Commission's Final Order."[326] I&E avers that as such, all adjustments to taxes related to I&E's recommendations occur as a result of this principle and not as a result of a specific tax adjustment. I&E MB at 39.

3. ALJs' Recommendation

PAWC noted that "no party disputes the manner in which PAWC calculated its federal and state income taxes."[327] As noted by I&E witness Okum, "[a]ll adjustments to the Company's claims for revenues, expenses, taxes, and rate base must be continually brought together in the Administrative Law Judge's Recommended Decision and again in the Commission's Final Order."[328] Accordingly, as a result of our other recommendations, we

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326 I&E St. 1-SR, p. 40.

327 PAWC MB at 33.

328 I&E St. 1-SR, p. 40.

recommend that PAWC's claims for taxes should be adjusted as detailed in Tables II and III for Water, WW SSS, and WW CSS.

X. RATE OF RETURN

A. Proxy Group

1. PAWC's Position

In selecting her proxy group, Ms. Bulkley applied specific criteria to a group of U.S. utilities to identify utilities that have similar risk.[329] PAWC states that due to on-going consolidation in the water utility industry, the Value Line research service commonly relied upon by investors identifies only seven companies in the United States as water utilities, and Ms. Bulkley's screening criteria (such as requiring that a utility not be involved in any merger proceedings) further reduced that group of water utilities to only four.[330] PAWC avers that because a small proxy group can lead to one company having an outsized effect on any proxy group calculation, Ms. Bulkley included several electric and gas utilities with water operations in her proxy group. PAWC states that other states (including Florida, Illinois, and Massachusetts) include electric and gas utilities in proxy groups in water utility rate proceedings due to the small number of suitable water utilities.[331] The similar nature of electric and natural gas utilities is well understood by other public utility commissions as well as industry leaders,[332] and Ms.

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[329] PAWC St. 13, p. 25.

[330] *Id.* at 27.

[331] PAWC St. 13-R, p. 23 (citing Massachusetts Department of Public Utilities, Docket No. 17-90, *Petition of Aquarion Water Company of Massachusetts, Inc., pursuant to G.L. c. 164, § 94, and G.L. c. 165, § 2, for Approval of a General Rate Increase as set forth in M.D.P.U. No. 3*., Oct. 31, 2018, pp. 286-87; Docket No. 20180006-WS, *In re. Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S*., Order No. PSC-2018-0327-PAA-WS, at 7. Illinois Commerce Commission, *Illinois-Am. Water Co. Proposed Rate Increases for Water and Sewer Service*, Docket No. 22-0210, Order, Dec. 15, 2022, at 102).

[332] PAWC St. 13-R, pp. 23-24.

Bulkley applied screening criteria to select electric and gas utilities with comparable risks to PAWC.[333] PAWC MB at 38-39.

OCA witness Garrett used the same water utilities selected by Ms. Bulkley.[334] While he did not believe it was necessary to include non-water utilities in his proxy group, he concluded that the results of his analyses were not materially different with the inclusion of electric and gas utilities.[335] In contrast, I&E witness Patel relied upon a proxy group that included the Company's parent company, American Water, and excluded Essential Utilities, Inc. (Essential Utilities), which both Ms. Bulkley and Mr. Garrett included in their proxy groups.[336] PAWC MB at 39.

PAWC asserts that Mr. Patel's decision to include American Water and exclude Essential Utilities compounds the flaws of his already-diminished proxy group. PAWC argues that PAWC is responsible for approximately 23.4% of American Water's revenue, so Mr. Patel is effectively using American Water to determine its own ROE. PAWC asserts that despite Ms. Bulkley highlighting the risk of such circularity in her rebuttal testimony,[337] Mr. Patel remained entirely unaware of PAWC's publicly known contribution to American Water's revenue.[338] PAWC states that Mr. Patel's justification for reducing his proxy group still further by excluding Essential Utilities – namely, his reliance on the fact Essential Utilities' revenue from water operations in 2022 was only 47.33% and not 50% – ignored the fact that 2022 was an anomalous year due to high gas prices, and Essential Utilities' operating revenue from water operations has

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[333] PAWC St. 13, pp. 15-16.

[334] OCA St. 3, p. 10.

[335] *Id.* at 19.

[336] I&E St. 2, p. 10.

[337] PAWC St. 13-R, pp. 19-20.

[338] Tr. 2129.

historically been above 50%.[339] PAWC states that inclusion of Essential Utilities in a proxy group for evaluation of PAWC is thus entirely proper. PAWC MB at 39-40.

PAWC avers that Mr. Patel's objection to the inclusion of electric and natural gas utilities was similarly misplaced. While Mr. Patel asserts that water companies have materially different operating characteristics, he acknowledged that water utilities have many of the same characteristics as other utilities.[340] He further conceded that electric and natural gas utilities did not have greater or lesser risks than water utilities, but only different risks.[341] PAWC MB at 40.

PAWC asserts that Mr. Patel's small proxy group led directly to his flawed DCF result because of the inclusion of the low results of just one company. PAWC concludes that in light of both the size and the flawed composition of Mr. Patel's proxy group, the Commission should rely upon the proxy group determined by Ms. Bulkley. PAWC MB at 40.

2. I&E's Position

I&E states that the Company's proxy group included four of the five companies utilized by I&E; however, I&E included PAWC's parent company American Water Works Company (AWK) and I&E excluded all electric and natural gas companies that were included by PAWC witness Bulkley. I&E asserts that its proxy group is the appropriate proxy group to use in this instance for various reasons. First, it does not appear that there is a good reason to exclude AWK from the proxy group. PAWC witness Bulkley merely mentions that it is her practice to exclude a subject company or its parent company from her proxy group.[342] However, as I&E witness Patel explains, AWK is a large company that operates and has experience in many states and numerous divisions, thereby making it appropriate for inclusion in the proxy

339 PAWC St. 13-R, pp. 20-22.

340 Tr. 2131-33.

341 Tr. 2142.

342 PAWC St. 13, p. 26.

group.[343] In rebuttal testimony Ms. Bulkley notes, that including AWK in the proxy group creates circularity because as PAWC contributes to the ROE of AWK.[344] I&E avers that the circularity would occur if PAWC alone was included in the proxy group. As explained by I&E witness Patel, AWK has vast operations across many states and numerous divisions and its required compliance to an equal number of state regulatory bodies eliminates the potential for the circularity effect Ms. Bulkley describes. I&E asserts that it is not uncommon for this Commission to include a parent company in a proxy group for the purposes of determining the appropriate rate of return. In the *Aqua 2022* base rate case, the Commission adopted I&E's proxy group, which included Aqua's parent company, Essential Utilities.[345] In the *Columbia Gas 2021* base rate case, the Commission adopted I&E's proxy group, which included the Columbia parent company, NiSource.[346] I&E states that this demonstrates that it is often appropriate to include the parent company in the proxy group when determining a utilities rate of return. I&E MB at 42-45.

I&E states that regarding the exclusion of Essential Utilities, Inc., which has water, wastewater, and gas segments, Mr. Patel notes that a utilities revenue composition of the appropriate measure to gauge when developing a proxy group.[347] PAWC witness Bulkley instead, relies on operating income when including Essential in her proxy group. As explained by Mr. Patel, a company's net income depends on various factors such as management efficiency, operational and financial efficiency, O&M cost containment, capital expenditures and the like.[348] I&E avers that when considering this information, it is clear that revenue composition is the more appropriate measure because a proxy group should establish a set of companies that are of a similar risk profile to the subject utility. I&E states that in this instance

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343 I&E St. 2, p. 12.

344 PAWC St. 13-R, pp. 19-20.

345 *Aqua 2022* at 134.

346 *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.,* Docket No. R-2020-3018835, p. 110 (Opinion and Order entered Feb. 19, 2021).

347 I&E St. 2-SR, p. 14.

348 I&E St. 2-SR, p. 14.

Essential is not comparable because less than 50% of its revenues come from the regulated water sector. I&E MB at 45-46.

I&E asserts that the Commission affirmed its standard of relying on percentage of revenue for determining whether a company should be included in a proxy group in the *Columbia Water 2024* base rate. Therein, the Commission once again explained that a company's revenue, rather than operating income, was the appropriate measure to gauge whether to include a utility in a proxy group.[349] I&E MB at 46.

I&E maintains that the proxy group developed by I&E witness Patel is the appropriate proxy group to use in this proceeding. Companies that are in the water industry are the most representative of the financial and operational risks faced by PAWC. I&E argues that using gas and electric utilities in the proxy group can distort the information that the proxy group provides. As Mr. Patel notes, electric and gas utilities are dissimilar from water and wastewater utilities because electric and gas customer can shop for a supplier.[350] I&E states that simply put, the water and wastewater utilities in Pennsylvania have less risk of losing customers than gas and electric companies whose customers have the option to look for supply alternatives or to switch fuel sources. In addition, Mr. Patel notes that each different utility industry faces different operational, safety, and weather-related risk.[351] I&E avers that as demonstrated, gas and electricity utilities are not substantially similar to water and wastewater utilities, and, thus, including them in the proxy group off which to base the rate of return and return on equity would not be appropriate. I&E recommends the use of its proxy group that excludes all gas and electric utilities, and includes PAWC's parent company AWK because I&E's proxy group is comprised of companies that are substantially comparable to PAWC and PAWC-WD. I&E MB at 47.

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349 *Pa. Pub. Util. Comm'n v. Columbia Water Co.*, Docket No. R-2023-3040258, pp.75-77 (Opinion and Order entered Jan. 18, 2024) (*Columbia Water 2024*).

350 I&E St. 2, p. 14.

351 I&E St. 2, p. 14.

In its Reply Brief, I&E argues that the argument that Mr. Patel's proxy group is too small is belied by PAWC's own rate of return witness Ann Bulkley who herself admits that the appropriate size for a proxy group has been established by FERC and is, in fact, 5 utilities of comparable risk.[352] I&E RB at 21.

3. OCA's Position

OCA witness David Garrett and PAWC witness Ms. Bulkley disagreed about whether it was reasonable to include six additional electric and natural gas utilities in the proxy group. Ms. Bulkley thought that it was due to the relatively small number of water utilities available for analysis. Mr. Garrett disagreed. However, in his discounted cash flows model (DCF Model) analysis and capital asset pricing model (CAPM) analysis results, Mr. Garrett presented three different calculations: (1) the water group; (2) the non-water group; and (3) the entire group combined. The OCA avers that while Mr. Garrett believes it is reasonable for the Commission to focus on the results of the water utility group only, as a practical matter, in this particular case, the results of his DCF Model and CAPM analyses were not materially different when applied to the water-only proxy group and total proxy group.[353] OCA MB at 48.

4. ALJs' Recommendation

We recommend that the Commission adopt I&E's proxy group. Although I&E's proxy group included four water utilities also used in the OCA and PAWC's proxy groups,[354] unlike I&E, the OCA and PAWC excluded American Water and included Essential Utilities from their proxy groups. We agree with I&E that American Water was properly included, and Essential Utilities was properly excluded from its proxy group.

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[352] Tr. at 2100.

[353] OCA St. 3, pp. 10-11; OCA Ex. DJG-12.

[354] American States Water Company, California Water Services Group, Middlesex Water Company, and SJW Group.

PAWC excluded its parent company, American Water, from its proxy group, asserting that including it would lead to circularity.[355] We agree with I&E that such circularity would occur if only PAWC was included in the proxy group, and that it is not uncommon for the Commission to include a parent company in a proxy group.[356] Additionally, consistent with the Commission's decision in *Columbia Water 2024*,[357] we agree with I&E that Essential Utilities is appropriately excluded as part of a proxy group since, as the most recent data presented in PAWC's own testimony shows,[358] less than 50% of Essential Utilities' operating revenues comes from regulated water service.

PAWC also included electric and gas utilities in its proxy group.[359] We are persuaded by I&E's assertion that companies that are in the water industry are the most representative of the financial and operational risks faced by PAWC.[360] As I&E witness Patel notes, electric and gas utilities are dissimilar from water and wastewater utilities because electric and gas customer can shop for a supplier.[361] In addition, Mr. Patel notes that each different utility industry faces different operational, safety, and weather-related risk.[362] Consistent with its chosen proxy group, the OCA also averred that it was reasonable for the Commission to focus on a water utility proxy group only.[363]

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355 *See* PAWC MB at 39 (citing PAWC St. 13-R, pp. 19-20).

356 *See* I&E MB at 44-45.

357 *Columbia Water 2024* at 74-77.

358 PAWC St. 13-R, p. 22.

359 PAWC St. 13, pp. 26-27.

360 PAWC MB at 47.

361 I&E St. 2, p. 14.

362 I&E St. 2, p. 14.

363 OCA MB at 48.

B. Capital Structure

1. PAWC's Position

PAWC states that the Commission has made clear that a utility's actual capital structure is to be used in rate of return analysis unless that capital structure is atypical, and has rejected the use of a "hypothetical" capital structure.[364] PAWC argues that its proposed capital structure recognizes the composition of the financing that PAWC is currently using to fund its investments and obligations, and Ms. Bulkley's testimony established that this capital structure was well within the range of equity ratios of her proxy group of utilities.[365] PAWC MB at 42.

PAWC states that Ms. Bulkley also explained that Mr. Garrett's approach was flawed in multiple ways. In particular, he relied upon the common equity ratio at the holding company level of the companies he considered, which includes corporate-level debt that is not part of the capital structure of the holding company's utility operating subsidiaries. As Ms. Bulkley testified, "[s]imply because the parent companies in the proxy group are used to estimate the Company's cost of equity does not mean that the *holding company* capital structures are the relevant comparators for establishing the Company's authorized capital structure;" it is the utility operating subsidiaries that are more comparable to PAWC in terms of risk.[366] PAWC MB at 42.

PAWC asserts that moreover, Mr. Garrett is using the market value of equity for calculating the cost of equity while using the book value of debt and equity to assess the Company's proposed equity ratio, leading to the incorrect conclusion that the market value of equity reflects investors' return requirements associated with a capital structure based on the book value of debt and equity.[367] PAWC states that his reliance on the Hamada model to attempt to justify a reduction to the Company's cost of equity is similarly flawed: the Hamada formula

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364 *Columbia Water 2024*, p. 84; *PPL 2012*, p. 62.

365 PAWC St. 13-R, pp. 72-73; *see also* PAWC St. 13, pp. 61-62.

366 PAWC St. 13-R, p. 73 (emphasis in original).

367 PAWC St. 13-RJ, pp. 11-12.

requires use of the market value of debt and equity, not book value.[368] PAWC concludes that the Commission should therefore reject Mr. Garrett's hypothetical capital structure and accept the Company's proposed capital structure. PAWC MB at 42-43.

In its Reply Brief, PAWC reiterated its criticisms of the OCA's position that PAWC should use a hypothetical capital structure. PAWC RB at 30-33. PAWC asserts that several cases cited by the OCA its Main Brief[369] to support its position are inapposite. For example, in *Pennsylvania Public Utility Commission v. Carnegie Natural Gas Co.*, the utility proposed to rely upon an actual capital structure of 93.39% equity, well above the level of comparable companies.[370] Similarly, in *Big Run Telephone Co. v. Pennsylvania Public Utility Commission*, the utility proposed a capital structure of 100% equity,[371] and in *T.W. Phillips Gas and Oil Co. v. Pennsylvania Public Utility Commission*, the utility proposed a capital structure of 60.1% equity where the comparable group of utilities had a capital structure with 45% equity.[372] Such "atypical" differences clearly do not exist here, and the PUC should adopt the Company's proposed actual capital structure and reject the OCA's hypothetical capital structure. PAWC RB at 33.

2. I&E's Position

I&E witness Patel recommends using the Company's claimed capital structures for both water and wastewater as these capital structures fall withing the range of Mr. Patel's proxy group.[373] I&E MB at 47-48.

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[368] PAWC St. 13-R, p. 74.

[369] OCA MB at 50-51.

[370] *Pa. Pub. Util. Comm'n v. Carnegie Natural Gas Co.*, 433 A.2d. 938 (Pa. Cmwlth. 1981).

[371] *Big Run Tel. Co. v. Pa. Pub. Util. Comm'n*, 449 A.2d 86, 89 (Pa. Cmwlth. 1982).

[372] *T.W. Phillips Gas and Oil Co. v. Pa. Pub. Util. Comm'n*, 474 A.2d. 205, 211-12 (Pa. Cmwlth. 1984).

[373] I&E St. 2, p. 16.

3. OCA's Position

The OCA argues that the Commission should reject the Company's proposed capital structure consisting of 44.7% debt and 55.3% equity (total company) because PAWC has not met its burden of justifying its claim. The OCA asserts that PAWC's proposed capital structure deviates from the average debt ratio of its own proxy group (49%), and it substantially deviates from the debt ratio of AWK, its parent company (55%).[374] Mr. Garrett recommends imputing a capital structure for PAWC equal to PAWC's proxy group average (inclusive of the six non-water utilities), which consists of 51% equity and 49% debt.[375] OCA MB at 48-49.

PAWC witness Bulkley disagrees with Mr. Garrett's recommendation to impute a capital structure equal to the proxy group average because she believes capital structure comparisons should be made to the operating subsidiaries of the proxy group rather than the proxy companies themselves (*i.e.*, the holding companies).[376] The OCA states that the Commission should reject Ms. Bulkley's recommendation. All the other inputs to the financial models employed in this case (*i.e.*, the CAPM and DCF Model) are derived directly from the proxy holding companies.[377] The OCA avers that is, after all, the point of a proxy group. Since PAWC and the OCA obtain all the other metrics used to estimate PAWC's cost of equity from the proxy group, it would be unreasonable to reject the capital structure of that same proxy group as part of the analyses.[378] The OCA states that additionally, PAWC's proposed debt ratio is clearly too low as compared to the proxy group (49%), AWK (parent company) (55%), and comparable industries (60% - 68%).[379] The OCA asserts that this results in excessively high

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[374] OCA St. 3, pp. 4, 55.

[375] OCA St. 3, pp. 58, 61; OCA Ex. DJG-13.

[376] OCA St. 3SR, p. 6.

[377] OCA St. 3SR, p. 7.

[378] *Id*.

[379] OCA St. 3, p. 57. The results of Mr. Garrett's analyses are summarized in the table shown on OCA St. 3 at 57.q

capital costs and utility rates.[380] Specifically, PAWC's excessive equity ratio alone would impose $30.7 million per year of additional expense to ratepayers, at PAWC's claimed rate base and ROE.[381] The OCA states that customers do not receive an additional benefit from the utility's excessively high capital costs; rather, it exclusively benefits PAWC's shareholders.[382] The OCA states there is no fair or reasonable basis in the record on which to authorize PAWC's proposed capital structure.[383] Based on Mr. Garrett's analysis, the OCA recommends the Commission adopt a capital structure for PAWC consisting of 49% debt.[384] OCA MB at 49-50.

The OCA asserts that moreover, in order for the results of the CAPM to be accurate, any discrepancy between the utility's capital structure and the proxy group's capital structure must be reconciled either through a capital structure adjustment for ratemaking purposes or a lower authorized ROE as estimated through the Hamada model.[385] The OCA states that in this case, the OCA is proposing a ROE that exceeds the results of the CAPM; thus, it is even more imperative that the Commission adjust the Company's proposed ratemaking capital structure so that the overall rate of return is not unfairly high.[386] OCA MB at 50.

The OCA states that use of the hypothetical capital structure is appropriate in cases like this one to reduce costs to ratepayers, as opposed to increasing costs, where the utility's management proposes an actual capital structure that imposes an unfair cost burden on ratepayers.[387] The OCA states that the underlying theme is an equitable one, in which the

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[380] OCA St. 3, p. 57.

[381] OCA St. 2; OCA Ex. LA-6, pp. 3-4.

[382] OCA St. 3, pp. 57-58.

[383] OCA St. 3, p. 58.

[384] OCA St. 3, p. 58.

[385] OCA St. 3, pp. 4, 58-60.

[386] OCA St. 3, p. 4.

[387] *See e.g. T.W. Phillips Gas and Oil Co. v. Pa. Pub. Util. Comm'n*, 474 A.2d 355, 362 (Pa. Cmwlth. 1984); *Carnegie Nat. Gas Co. v. Pa. Pub. Util. Comm'n*, 433 A.2d 938 (Pa. Cmwlth. 1981) (*Carnegie*).

Commission and Pennsylvania courts do not allow the utility's financial interests to outweigh the public interest.[388] OCA MB at 50-51.

In its Reply Brief, the OCA asserts that PAWC misstates the standard the Commission outlined in the *Columbia 2024* case, which states: "Absent a finding by the Commission that a utility's actual capital structure is atypical *or* too heavily weighted on either the debt or equity side, we would not normally exercise our discretion with regard to implementing a hypothetical capital structure."[389] The OCA avers that the full standard articulated in *Columbia 2024* is more consistent with the holding of the Commonwealth Court.[390] The OCA argues that under the correct standard, the Commission *must make adjustments* to the utility's capital structure where it is too heavily weighted toward debt or equity. The Commission can utilize a hypothetical capital structure for ratemaking purposes when the utility's actual capital structure is "unreasonable or uneconomical when balancing the goals of safety, prudent management, and economy."[391] OCA RB at 30 (emphasis in original).

4. ALJs' Recommendation

We recommend that the Commission adopt PAWC's capital structure. We agree with PAWC that its proposed capital structure recognizes the composition of the financing that PAWC is currently using, and the capital structure is within the range of equity ratios of the proxy group of utilities.[392] Although the OCA argues a hypothetical capital structure should be used based on Commission precedent, we agree with PAWC that the cases cited by the OCA

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388 *Pa. Pub. Util. Comm'n v. Pa. Gas and Water*, 424 A.2d 1213, 1217 (Pa. 1980); *see also Arrowhead Pub. Serv. Corp. v. Pa. Pub. Util. Comm'n*, 600 A.2d 251, 257 (Pa. Cmwlth. 1991); *Big Run Tel. Co. v. Pa. Pub. Util. Comm'n*, 449 A.2d 86, 89 (Pa. Cmwlth. 1982).

389 *Columbia 2024* at *43 (citing *PPL 2012* at 68) (emphasis added by the OCA).

390 *Carnegie Na. Gas Co. v. Pa. Pub. Util. Comm'n*, 433 A.2d 938, 940 (Pa. Cmwlth. 1981) (citations omitted).

391 *Pa. Pub. Util. Comm'n v. Carnegie Nat. Gas Co.*, 54 Pa.P.U.C. 381, 393 (1980), *aff'd by Carnegie*.

392 *See* PAWC MB at 42 (citing PAWC St. 13-R, pp. 72-73; PAWC St. 13, pp. 61-62).

represent cases where a company's actual capital structure was inconsistent with a comparable group of utilities, a situation not present here.[393] We also note that I&E recommended using the Company's claimed capital structure.[394]

C. Cost of Long-Term Debt

1. PAWC's Position

PAWC states that the Company's long-term debt was calculated by Ms. Bulkley, using specific debt identified for wastewater services and calculating the water services capital structure and associated water services long-term debt by removing the wastewater services debt.[395] The Company's cost of long-term debt presented by Ms. Bulkley was accepted by I&E witness Patel and should have been accepted by OCA witness Garrett in his consideration of the Company's proposed capital structure. PAWC MB at 43.

2. I&E's Position

I&E accepts PAWC and PAWC-WD's claimed cost rate of long-term debt of 4.76% for water and wastewater, as well as the 2.67% cost rate of long-term debt for wastewater specific issuances.[396] I&E witness Patel opines the Company's claimed cost rate of long-term debt is reasonable as it is representative of the industry. The implied long-term cost of debt range of I&E witness Patel's proxy group is 3.19% to 5.67%.[397] The Company's cost rate of long-term debt for Water Operations of 4.76% falls within the proxy group. I&E states that while the 2.67% (updated by PAWC witness Bulkley in Rebuttal from 2.62%) is slightly below

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[393] *See* PAWC RB at 33.

[394] I&E St. 2, p. 16.

[395] PAWC St. 13, pp. 59-60
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[396] I&E St. 2-SR, p. 43.

[397] I&E St. 2, p. 18.

this range, it is sufficiently close to the low end of the range, and therefore is appropriate to use for this proceeding.[398] I&E MB at 48.

3. OCA's Position

The OCA accepted PAWC's proposed cost of long-term debt, and the OCA's proposed modifications to the Company's capital structure do not affect the cost of debt. OCA RB at 31.

4. ALJs' Recommendation

We recommend that the Commission adopt PAWC's cost of long-term debt. Both I&E and the OCA accepted PAWC's proposed cost of long-term debt.[399] As PAWC explained, the Company's long-term debt was calculated using specific debt identified for wastewater services and calculating the water services capital structure and associated water services long-term debt by removing the wastewater services debt.[400]

D. Return on Equity

1. PAWC's Position

PAWC avers that given PAWC's capital needs, a ROE that is adequate to attract capital at reasonable terms is essential for PAWC to continue to provide safe, reliable water and wastewater service.[401] PAWC states that because the cost of common equity does not lend itself to precise mathematical computation, public utility commissions rely on multiple models to

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[398] I&E St. 2, pp. 17-18.

[399] I&E RB at 22; OCA RB at 32.

[400] PAWC MB at 43 (citing PAWC St. 13, pp. 59-60).

[401] *Id.* at 11.

calculate the proper cost of equity for the period a utility's new rates will be in effect.[402] The Commission has recognized the need for multiple models, and specifically the need to use the DCF and CAPM in times of inflation and high interest rates.[403] PAWC MB at 43.

PAWC states that consistent with recent Commission decisions, Ms. Bulkley considered the results of both the DCF and the CAPM. Ms. Bulkley considered a variety of published long-term growth rates and calculated results using minimum, average, and high growth rates from these sources, leading to a DCF range of 8.69% to 10.96%.[404] Ms. Bulkley's analysis also indicated a traditional CAPM range of returns from 10.15% to 11.17%, with Empirical CAPM ROEs of 10.73% to 11.50%.[405] PAWC states that in light of the results of both the DCF and CAPM models, and after considering the business, financial and regulatory risks faced by PAWC and the Company's superior management performance, Ms. Bulkley recommended an ROE of 10.95%.[406] PAWC MB at 43-45.

PAWC avers that relying upon the flawed proxy group, I&E witness Patel recommends an ROE of 8.45% based solely on his DCF calculations, which is below any return authorized for a water utility in the United States since 2010 and well below the returns recently authorized by the Commission for other Pennsylvania water utilities.[407] Although he undertook a CAPM analysis that resulted in an ROE of 10.44%, Mr. Patel discarded his CAPM result, in part because he "respectfully disagree[d]" with the Commission's consideration of inflation and interest rates in the *Columbia Water 2024*. He also concluded that PAWC did not face any

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402 *Id.* at 31-32; *see also* PAWC Cross Exhibit 2 (David C. Parcell, THE COST OF CAPITAL – A PRACTIONER'S GUIDE, p. 89).

403 *Columbia Water 2024*, p. 107.

404 *Id.* at 36.

405 *Id.* at 59-60.

406 PAWC St. 13, p. 59.

407 I&E St. 2, pp. 31, 35; PAWC St. 13-R, p. 6.

specific risks different than his proxy group companies and was not entitled to any increase for management performance.[408] PAWC MB at 46.

PAWC states that as a threshold matter, I&E witness Patel appears to have assumed that the Federal Reserve would definitely cut interest rates in 2024 despite the Federal Reserve Chairman Power's continuing emphasis that the Federal Reserve will not cut interest rates until it is "confident" that its 2% inflation objective is assured.[409] While Mr. Patel concedes that "current market conditions are still characterized by high interest rates and capital costs," he contends that it is nevertheless "speculative that current high inflation and interest rate scenarios will continue in the longer term"[410] even with the Federal Reserve's continuing cautionary approach and clear statement that inflation will remain well above its target level until 2026, after rates in this proceeding are in effect.[411] PAWC MB at 46.

PAWC asserts that in light of the statements of Chairman Powell, any "speculation" is in concluding that the Federal Reserve will make interest rate cuts in the near future, and not the likelihood of continuing high inflation that has driven interest rates to high levels with which the Federal Reserve continues to remain concerned. Further, Ms. Bulkley's analysis takes into consideration projected interest rates, relying on both a near term estimate through the first quarter of 2025 and a long-term estimate for the period from 2025 through 2029.[412] PAWC states that in short, it is reasonable to expect that if government bond yields remain elevated, the cost of equity will be increasing above the levels experienced in the 2020 and 2021 lower interest rate environment.[413] PAWC MB at 47.

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408 I&E St. 2, pp. 54-69, 71.

409 I&E St. 2, p. 40; PAWC St. 13-RJ, p. 1.

410 I&E St. 2-SR, p. 8.

411 PAWC St. 13-R, p. 13.

412 PAWC St. 13, p. 40.

413 PAWC St. 13, p. 21.

PAWC states that Mr. Patel's analysis relies upon an incorrect reading of the Commission decisions in both *Aqua 2022* and *Columbia Water 2024*. In Mr. Patel's view, the PUC used both DCF and CAPM models because of "various other factors" that the Commission considered in its final determination of an ROE.[414] PAWC avers that the PUC's decision to rely on both models due to economic conditions is distinct from its discussion of the utility-specific factors used to calculate the ROE of both Aqua and Columbia Water. PAWC notes that in *Aqua 2022* the Commission highlighted that the DCF model does not directly account for interest rates.[415] And in *Columbia Water 2024*, the Commission also explicitly stated its approach based on market conditions: "Based on the record, we agree with the ALJs that is appropriate to consider the CAPM results to account for economic changes such as those occurring currently, in addition to the DCF results, to determine Columbia's ROE."[416] PAWC states that in this proceeding, Mr. Patel has again repeated I&E's prior error of disregarding CAPM results and appropriately adjusting I&E's ROE recommendation. PAWC MB at 47-48.

PAWC avers that with respect to his DCF calculations, Mr. Patel chose to use a spot stock price instead of a 30-day average, which both Ms. Bulkley and OCA witness Garrett used. PAWC asserts that the small size of his proxy group also resulted in undue weight to a single company, Middlesex Water, which had an unreasonable DCF result of only 5.77%. Simply using a 30-day average, excluding Middlesex Water's results, and incorporating Essential Utilities in Mr. Patel's proxy group yields a revised DCF mean result of 9.21%; using PAWC's more reasonable proxy group results in a DCF of 9.82%.[417] PAWC MB at 48.

PAWC asserts that Mr. Patel's CAPM calculation is similarly flawed. Although the Commission has previously approved the use of a 10-year Treasury rate for calculation of the CAPM, Ms. Bulkley explains that a more appropriate period of time for consideration of long-

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414 I&E St. 2-SR, pp. 7-8.

415 *Aqua 2022*, p. 89.

416 *Columbia Water 2024*, p. 107 (citing *Aqua 2022*).

417 PAWC St. 13-R, p. 30-31.

term utility investments is the life of PAWC's utility plant assets, which average 34.7 years – consistent with her use of a 30-year Treasury rate. Mr. Patel also calculated a market return based on a *Value Line* report for a single week, which was indisputably well below the historical average.[418] PAWC states that even granting Mr. Patel the use of the 10-year Treasury bond, simply including Essential Utilities in his proxy group for reasons discussed previously increases his CAPM result to 10.71%. PAWC MB at 48-49.

PAWC concludes that conservatively weighing Mr. Patel's DCF and his CAPM analysis 50/50 after reasonable adjustments – which is less weight on the CAPM analysis than the Commission placed in both *Aqua 2022* and *Columbia Water 2024* – results in an ROE of 10.02%, or 10.53% with a proper proxy group, before the addition of any enhancement for superior management performance.[419] PAWC MB at 49.

PAWC states that unlike Mr. Patel, OCA witness Garrett does rely on both the DCF and CAPM models in estimating a cost of equity for PAWC. PAWC avers that as with Mr. Patel, however, Mr. Garrett's calculations and criticisms of Ms. Bulkley's results are misplaced. PAWC MB at 49.

PAWC states that in his DCF calculation, Mr. Garrett used the same Constant Growth DCF model as Ms. Bulkley, with both a sustainable growth rate and growth rates from various analysts. He calculated his DCF results based on analysts' growth rates using both his proxy group and Ms. Bulkley's proxy group, which were 9.4% and 9.3%, respectively.[420] PAWC states that while he properly emphasized that it was important to consider CAPM results and not simply rely upon the DCF results, he nevertheless criticized Ms. Bulkley's DCF results because he believed they were calculated with short-term analyst growth rates that were too high.[421] As Ms. Bulkley explained, however, Mr. Garrett used growth rates that were *higher*

[418] *Id.* at 47.

[419] *Id.* at 50.

[420] OCA St. 3, p. 28.

[421] *Id.* at 29-30.

than Ms. Bulkley's growth rate.[422] Mr. Garrett's response was only to acknowledge that the lower end of Ms. Bulkley's DCF range was acceptable but other results were too high – despite his use of the exact same methodology.[423] PAWC MB at 49-50 (emphasis in original).

PAWC states that in light of his DCF results, Mr. Garrett focused on his CAPM model, and calculated a ROE of 8.8% – well below Ms. Bulkley's range of 10.15% to 11.17%, as well as I&E witness Patel's calculation of 10.44%.[424] The primary issue between Ms. Bulkley's model results and Mr. Garrett's calculations involved the market risk premium. PAWC avers that as Ms. Bulkley explained, Mr. Garrett's market risk premium of 5.30% was understated in light of a well-established inverse relationship between interest rates and the market risk premium, and he improperly relied on a business school survey.[425] Mr. Garrett contends that Ms. Bulkley's market risk premium range of 8.03% to 8.12% was inconsistent with not only the business school survey but also other sources.[426] PAWC asserts that Ms. Bulkley's testimony at hearings established that her market return was consistent with the range of annual equity returns that have been observed from 1926 to 2022. She also described the review of 29 different market risk premium methodologies by the Federal Reserve Bank of New York which underscored that the market risk premium tends to peak during periods of high inflation and demonstrated that her estimates were reasonable and in line with independent sources.[427] PAWC states that if Mr. Garrett's CAPM analysis were performed with I&E witness Patel's market risk premium and that CAPM result (10.60%) was averaged with Mr. Garrett's uncorrected DCF result (9.4%) in the same manner as Mr. Garrett did himself, his ROE calculation in this proceeding would be 10.00%.[428] PAWC MB at 50.

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[422] PAWC St. 13-R, pp. 57-58.

[423] OCA St. 3-R, pp. 2-3; PAWC St. 13-R, pp. 54-55; PAWC St. 3-RJ, pp. 7-8.

[424] OCA St. 3, p. 43; PAWC St. 13, pp. 59-60; I&E St. 2, p. 34.

[425] PAWC St. 13-R, pp. 56-57.

[426] OCA St. 3-R, p. 4-6.

[427] PAWC St. 13-RJ, pp. 10-11.

[428] PAWC St. 13-R, pp. 60-61.

Regarding OSBA witness Higgins' using a "proxy" ROE of the Commission's most recently approved DSIC ROE of 9.65% for water and wastewater utilities,[429] PAWC asserts that the Commission has already made clear that the DSIC ROE is no substitute for a proper cost of equity analysis.[430] As Mr. Higgins himself states that his "proxy" ROE is not intended to be relied upon by the PUC, the Commission should disregard Mr. Higgins' 9.65% proxy in its consideration of the proper ROE for the Company. PAWC MB at 51.

PAWC states that PAWLUG witness LaConte also does not provide any cost of equity analysis upon which the Commission can rely. Instead, she simply contends that Ms. Bulkley's recommended 10.95% is "overstated" because it exceeds the DSIC ROE, the national average ROE for water utilities of 9.45%, and the ROE of 10% approved by the Commission in *Aqua 2022*, and purportedly does not recognize any possible reduced financial risk associated with the Company's and alternative ratemaking and cost deferral proposals in this proceeding. PAWC MB at 51.

In its Reply Brief, PAWC avers that I&E has again done exactly what the Commission found fault with in both *Aqua 2022* and *Columbia Water 2024*: asserting that CAPM results were taken into consideration in its recommended ROE but then relying solely upon its DCF results. PAWC states that the low ERP that the OCA advocates in this proceeding is consistent with the same low ERP rejected in *Columbia Water 2024*.[431] PAWC RB at 34-40.

2. I&E's Position

Using a DCF model, I&E witness Patel recommends a cost of common equity of 8.45% for both the water and wastewater divisions.[432] Although not part of his recommendation

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429 OSBA St. 1, pp. 17-18.

430 *Aqua 2022*, p. 177.

431 *Columbia Water 2024*, p. 93.

432 I&E Ex. 2, Sch. 1.

for a cost of common equity, Mr. Patel's CAPM analysis leads to a cost of equity result of 10.44%. I&E MB at 48-51.

I&E witness Patel opposes PAWC witness Bulkley's calculated return on equity for several reasons. First, as stated above in the discussion of proxy groups, PAWC witness Bulkley's selected proxy group is flawed as discussed above, making her results unusable. Second, Ms. Bulkley gives undue weight to the CAPM and ECAPM methods. Third, PAWC witness Bulkley's adjustment for management performance is unsupported and inappropriate. I&E MB at 52.

I&E argues that just recently, the Commission affirmed reliance primarily on the DCF and rejected giving equal weight to the other methodologies.[433] I&E states that even more recently, in both *Columbia Gas*[434] and *PECO Energy Company – Gas Division* decision,[435] the Commission affirmed I&E's use of the DCF methodology as the primary methodology to determine the return on equity with the CAPM as a comparison. I&E states that the Commission has explained that it is only in very specific instances that it will vary from the methodology utilized by I&E.[436] I&E asserts that no evidence has been presented that would indicate the DCF-only results presented by I&E witness Patel would understate PAWC's current cost of equity capital. I&E concludes that therefore, the methodology used by I&E witness Patel is appropriate. I&E MB at 55.

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433 *Pa. P.U.C. v. City of DuBois – Bureau of Water*; Docket No. R-2016-2554150 (Order Entered March 28, 2017), pp. 96-97; *UGI 2018* at 103-106.

434 *Pa. Pub. Util. Comm'n. v. Columbia Gas*, Docket No. R-2020-3018835, p. 127 (Opinion and Order entered Feb. 19, 2021) .

435 *Pa. Pub. Util. Comm'n v. PECO Energy Co. – Gas Div.*, Docket No. R-2020-3018929, p. 171 (Opinion and Order entered June 22, 2021).

436 *PPL 2012* at 81.

I&E witness Patel recommends the Commission reject PAWC witness Bulkley's method of calculating the risk-free rate used for her CAPM analysis.[437] PAWC witness Bulkley's claim is based upon expected yields on 30-year U.S. Treasury Bonds. I&E asserts that use of 30-year treasury bonds is not appropriate. Long-term Treasury Bonds have substantial maturity risk associated with the market risk and the risk of unexpected inflation and normally offer higher yields to compensate investors for these risks.[438] I&E avers that using the 10-year Treasury Note is more appropriate to balance the short-term volatility risk and the long-term inflation risk. Additionally, the Commission has recognized the 10-year Treasury Note as the superior measure for the risk-free rate.[439] In sum, I&E states that its witness Patel's use of the yield on a 10-year Treasury Note is appropriate because it better reflects the life of the underlying investment and has been recognized by this Commission as the appropriate measure of the risk-free rate. I&E MB at 56-57.

I&E states that its witness Patel excluded the ECAPM method from his analysis because it has essentially the same flaws as the CAPM but with a further measure of subjectivity.[440] I&E MB at 57-58.

I&E witness Patel recalculates Mr. Bulkley's CAPM analysis by removing gas and electric companies from her proxy group, using a 10-year Treasury Note, and eliminating the ECAPM analysis. The overall average result of this recalculation below yields a 9.81% CAPM result, which is lower than I&E witness Patel's CAPM result of 10.44%.[441] I&E concludes that because of the flaws associated with these methods, the results of PAWC witness Bulkley's CAPM and ECAPM analysis should be disregarded. I&E MB at 58.

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[437] I&E St. 2, pp. 49-50.

[438] I&E St. 2, p. 49.

[439] *UGI 2018* at 99.

[440] I&E St. 2, p. 50.

[441] I&E St. 2, p. 51.

3. OCA's Position

The OCA states that the Commission should reject the Company's proposed ROE of 10.95% as excessive and unsupported.[442] The OCA asserts that an objective cost of equity analysis shows that the Company's market-determined cost of equity is notably lower than proposed by PAWC.[443] The OCA recommends that the Commission set the Company's market-determined cost of equity at 9.1%, which is the average of OCA witness Garrett's CAPM result (8.7%) and DCF Model result (9.4%).[444] However, if the Commission accepts the Company's proposed capital structure and/or adopts either of the Company's proposed alternative ratemaking proposals, then the OCA recommends the Commission grant only the 8.7% ROE supported by Mr. Garrett's models. OCA MB at 51.

PAWC witness Bulkley's DCF Model analyses, as updated in her rebuttal, yielded a cost of equity range of 8.65% to 11.34%.[445] In contrast, Mr. Garrett's DCF Model analysis produced a cost of equity result of 9.4%.[446] The OCA asserts that this does not mean that PAWC's cost of equity is as high as 9.4%. In order to get an accurate assessment of the cost of equity, a model that measures market risk and its impact on individual companies must be used. The OCA avers that this is exactly what the CAPM does. The OCA states that the results of Mr. Garrett's CAPM indicate a lower cost of equity for PAWC, and these results must be considered in the overall analyses.[447] OCA MB at 51-52.

The OCA argues that Ms. Bulkley's DCF Model analysis results are overstated primarily because she relies on non-sustainable growth rate assumptions that are unreasonably

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442 OCA St. 3, pp. 29-33, 44-47, 48-50; OCA St. 3SR, pp. 8-11; Tr. 2113.

443 OCA St. 3, pp. 3, 28, 42-43; OCA St. 3SR, pp. 2-3, 3-6.

444 OCA St. 3, pp. 3, 61; OCA St. 3SR, p. 7.

445 PAWC St. 13R, p. 10; OCA St. 3SR, p. 2.

446 OCA St. 3, pp. 20-28.

447 OCA St. 3, p. 28.

high and because she considered flotation costs in making her final ROE recommendation.[448] The OCA asserts that Ms. Bulkley's use of long-term growth projection in earnings or dividends that exceed long-term growth projections of the aggregate economy's growth rate (measured in U.S. GDP) and inclusion of flotation costs should be viewed with caution if not rejected outright.[449] OCA MB at 52.

The OCA notes that its proposed ROE for PAWC of 9.1% falls within Ms. Bulkley's overall DCF Model range.[450] The OCA states that its recommended 9.1% ROE aligns with investors' interests while protecting consumers from paying more than is required. I&E avers that the Commission would be well within its discretion to adopt the 9.1% as it balances the interests of investors and consumers and falls within the zone of reasonableness.[451] OCA MB 52-53.

PAWC witness Bulkley presented several variations of the CAPM, with results as high as 11.5%.[452] The OCA states that in contrast, Mr. Garrett's CAPM analysis produced a cost of equity result of 8.7%.[453] The OCA states that the primary area of disagreement between the two is the ERP. The OCA asserts that Mr. Garrett considered three reliable and objective sources to include in his overall ERP estimate, including the result of the IESE Business School survey of experts, the estimate published by Kroll (formerly Duff & Phelps), and the estimate published by one of the world's leading experts on the issue, Dr. Aswath Damodaran.[454] Mr. Garrett also conducted and presented his own ERP estimate, the result of which is similar to

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448 OCA St. 3, pp. 29-31; OCA St. 3SR, pp. 2-3.

449 OCA St. 3, pp. 30-33; OCA St. 3SR, pp. 2-3.

450 OCA St. 3, p. 29.

451 *Permian Basin Area Rate Cases*, 390 U.S. 747, 794-95 (1968) (*Permian Basin*) at 770, 797.

452 OCA St. 3, p. 44; PAWC St. 13, p. 45, Fig. 8.

453 OCA St. 3, pp. 33-43.

454 OCA St. 3SR, p. 4.

those from the other sources.[455] The OCA argues that when compared with other independent sources for the ERP (as well as Mr. Garrett's estimate), which do not have a wide variance, Ms. Bulkley' ERP estimate is clearly not within the range of reasonableness.[456] OCA MB at 53-54.

The OCA asserts that ultimately, however, Ms. Bulkley is suggesting to the Commission that her ERP estimate is more accurate than the aggregate opinions of more than 1,300 expert survey respondents, a leading global provider of risk management and valuation, and one of the world's leading academics on the ERP.[457] The OCA argues that this is not reasonable. The ERP estimates provided by the survey of experts, Kroll, and Dr. Damodaran, as relied upon by Mr. Garrett, are more objective, reasonable, and unbiased than Ms. Bulkley' ERP estimate.[458] Moreover, the ERP results from these sources do not have a wide variance, which provides further indication of a tight, reasonable range for the ERP, from which Ms. Bulkley's ERP estimate clearly and significantly diverges.[459] OCA MB 54-55.

In its Reply Brief, the OCA states that in an attempt to justify Ms. Bulkley's unreasonably high ERP, the Company points to a historic look back over the last 97 years, and a "review of 29 different market risk premium methodologies by the Federal Reserve Bank of New York which underscored that the market risk premium tends to peak during periods of high inflation"[460] The OCA argues that this justification points to the past and ignores the comparisons of Ms. Bulkley's estimate to that of other relevant experts. Furthermore, The OCA states that the Company has not supported the use of Ms. Bulkley's 8.12% ERP but rather has made general statements about a higher ERP in times of inflation, citing to Ms. Bulkley's

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455 OCA St. 3, pp. 44-46; OCA St. 3SR, p. 4; OCA Ex. DJG-10.

456 OCA St. 3, p. 46; OCA St. 3SR, p. 5.

457 OCA St. 3SR, p. 5.

458 OCA St. 3SR, p. 6.

459 OCA St. 3SR, p. 6.

460 PAWC MB at 45, 50.

Rejoinder testimony where she relies on inflation being above the Federal Reserve's target rate as a justification for her overly inflated ERP.[461] OCA RB at 34.

The OCA asserts that the Company's combination of I&E witness Patel's Market Risk Premium with Mr. Garrett's CAPM[462] should be disregarded. The OCA states that this combination of the calculations by two witnesses for separate parties is results-driven, arbitrary, and cherry picking. To replace Mr. Garrett's Equity Risk Premium for that of Mr. Patel's is in essence to change the CAPM to something that Mr. Garrett did not testify to. The OCA states that, furthermore, this sort of results-driven analysis should be rejected by the Commission as it does nothing but arbitrarily raise results to something closer to what PAWC wishes them to be, not what the model produced them to be. OCA RB at 34.

4. OSBA's Position

For the purposes of this proceeding, OSBA expert witness Kevin Higgins utilized the 9.65% ROE authorized for PAWC's distribution system improvement charge ("DSIC") in the most recent Report of the Commission's Bureau of Technical Utility Services on the Quarterly Earnings of Jurisdictional Utilities as a proxy for his revenue requirement.[463] OSBA MB at 14.

The OSBA states that Mr. Higgins' use of the proxy ROE has implications for the adjustments when addressing PAWC's acquisitions of other utilities. Use of the proxy ROE in the calculation of the revenue requirement impacts of his acquisition-related adjustments provides a more realistic measurement of the impact of those adjustments.[464] OSBA MB at 14.

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461 OCA MB at 54 n. 26; PAWC MB at 50; PAWC St. 13RJ, pp. 8-9.

462 OCA MB at 50.

463 OSBA St. 1, p. 17.

464 OSBA St. 1, at 18.

The OSBA has no objection, and would support, either the ROE of 8.45% proffered by I&E, or the ROE of 9.1% and capital structure proffered by the OCA. OSBA MB at 14.

5. PAWLUG's Position

PAWLUG states that, as detailed in its Direct Testimony, numerous indicators show PAWC's proposed ROE to be excessive and unreasonable. PAWC's proposed ROE becomes particularly unreasonable when considered alongside the various alternative ratemaking mechanisms proposed by the Company which, if approved, would reduce the Company's operating risks. Accordingly, PAWLUG recommends that the Commission reject PAWC's proposed ROE. PAWLUG MB at 9.

In conjunction with the alternative ROE recommendations developed by other parties, PAWLUG requests that the Commission consider indicators collectively establishing the unreasonableness of PAWC's recommended ROE. PAWLUG witness Bille LaConte observes that PAWC's proposed ROE exceeds the 9.45% average ROE for a domestic water utility by 150 basis points.[465] PAWLUG states that the 10.95% ROE exceeds the fully litigated ROE of 10% approved by the Commission in Aqua's 2022 base rate case by 95 basis points.[466] PAWLUG avers that the Commission should also consider that PAWC's proposed ROE exceeds the September 30, 2023, proxy ROE developed by the Commission's Bureau of Technical Utility Services for purposes of calculating water DSIC.[467] PAWLUG MB at 9.

PAWLUG argues that PAWC's proposed ROE is particularly egregious because it omits any adjustment for the various alternative rate and deferral mechanisms proposed by the Company to further reduce its operational risks. PAWLUG states that by seeking approval of these alternative ratemaking and deferral mechanisms without addressing the impact on its

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465 PAWLUG St. 1 at 7.

466 *See* PAWLUG St. 1 at 5.

467 *Id.*

financial risk profile through adjustments to its ROE, PAWC unreasonably shifts operational risks from shareholders to ratepayers. PAWLUG avers that PAWC's attempts to characterize the proposed alternative ratemaking and deferral mechanisms as industry standards are inaccurate and should be given no weight. PAWLUG MB at 9-10.

PAWLUG asserts that Ms. Bulkley's comments on revenue decoupling significantly misrepresent the similarities between the proxy group and PAWC's proposals. Of the 59% of the proxy group with some form of revenue stabilization mechanism, most are gas and electric utilities. PAWLUG avers that examination of the water utilities in PAWC's proxy group show only 5 of 23 have any kind of revenue stabilization mechanism.[468] As explained in detail by I&E witness D.C. Patel, water and wastewater utilities face less competition and different operational, safety, and weather-related risks compared to their electric and gas counterparts.[469] PAWLUG MB at 10-11.

PAWLUG states that the term "revenue stabilization mechanisms" as applied in Ms. Bulkley's analysis refers primarily to weather normalization adjustment mechanisms.[470] PAWLUG states that a review of the survey cited by PAWC as support for the prevalence of revenue decoupling among the proxy group shows the majority of revenue decoupling mechanisms classified as "partial" are in fact weather normalization adjustments.[471] PAWLUG asserts that weather normalization adjustment mechanisms are not comparable to PAWC's proposed revenue decoupling mechanism as "weather normalization adjustment mechanisms are generally limited to Residential customers and only adjust revenue for weather variation."[472] PAWLUG states that this overgeneralized classification explains why the survey references prior approval of revenue decoupling in Pennsylvania, because the weather normalization adjustment

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[468] PAWLUG St. 1S, pp. 9-10.

[469] I&E St. 2, p. 14.

[470] PAWLUG St. 1S, p. 10.

[471] *Id.*

[472] *Id.*

mechanism approved for Columbia Gas of Pennsylvania is counted as a "revenue decoupling mechanism" for purposes of Ms. Bulkley's analysis. PAWLUG MB at 11.

PAWLUG states that as for the ECIC, the pension/OPEB deferral mechanism, or the production deferral mechanism, PAWC did not identify any companies in the proxy group with similar mechanisms. PAWC suggests that the ECIC is "commonplace" due to the prevalence of "infrastructure replacement mechanisms," but this association conflates the ECIC with more traditional infrastructure surcharge mechanisms, like PAWC's existing DSIC.[473] PAWLUG MB at 11-12.

PAWLUG concludes that the Commission has been presented with three ROE recommendations based on numerous underlying models, including PAWC's proposed 10.95% ROE, PAWC's calculated 10% - 11.25% range of reasonableness, OCA's proposed 9.1% ROE, and I&E's proposed 8.45% ROE. Rather than recommend a specific ROE, PAWLUG requests that the Commission reject the 10.95% ROE proposed by PAWC and consider the evidence presented by PAWLUG in determining a reasonable ROE based on range of reasonableness supported by the parties' analyses. PAWLUG MB at 12.

6. ALJs' Recommendation

We recommend that the Commission adopt a modified version of I&E's Return on Equity analysis. Consistent with the Commission's decisions in *Aqua 2022* and *Columbia Water 2024*, the Commission should adopt a Return on Equity based on both I&E's DCF and CAPM models. Accordingly, we recommend that the Commission adopt a 9.45% Return on Equity, which is an average of the results of I&E's DCF and CAPM analyses.[474]

We recommend a modified version of I&E's analysis because we agree with PAWC that I&E's reliance on just the DCF model for its analysis is flawed. Although I&E cited

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473 *See* PAWC St. 13, pp. 50-51; *but see* PAWLUG St. 1S, p. 10.

474 8.45% ROE (DCF) + 10.44% ROE (CAPM) = 9.45%. *See* I&E MB at 48-51.

past Commission decisions adopting the DCF model only,[475] PAWC correctly noted that more recently the Commission adopted use of both the DCF and CAPM models to determine ROE in *Aqua 2022* and *Columbia Water 2024*.[476] PAWC convincingly argued that the conditions that lead the Commission to its determinations in *Aqua 2022* and *Columbia Water 2024*, i.e., higher inflation and associated higher interest rates and capital costs, still exist and are likely to continue.[477] We also note that I&E's DCF result is nearly two hundred basis points below its CAPM results. The Commission in *Aqua 2022* and *Columbia Water 2024* concluded that methodologies other than the DCF can be used to check upon the reasonableness of a DCF derived ROE calculation.[478] Although I&E witness Patel stated that CAPM should be used as a comparison of the DCF,[479] he does not persuasively explain how he used his CAPM results as a comparison to justify the notable gap with his DCF results.

Although we agree with PAWC that both the DCF and CAPM models should be used, we recommend that I&E's specific DCF and CAPM models be used to determine PAWC's Return on Equity. We have already recommended that the Commission adopt I&E's proxy group. Regarding I&E's DCF model, I&E witness Patel used a spot dividend yield and a 52-week dividend yields for his DCF model,[480] which is consistent with I&E's models adopted by the Commission in *Aqua 2022* and *Columbia Water 2024*.[481] Although PAWC witness Bulkley asserts it is inappropriate to rely on using a spot stock price,[482] Mr. Patel persuasively explained that his DCF analysis is more complex and considers spot price, the 52-week high and 52-week low price in the calculation of the average spot dividend yield and average 52-week dividend

475 I&E MB at 54-55.

476 PAWC MB at 47-48.

477 PAWC MB at 46-47.

478 *Aqua 2022* at 155; *Columbia Water 2024* at 108.

479 I&E St. 1, pp. 19-20.

480 I&E St. 2, p. 29; I&E Ex. 2, Sch. 4.

481 *Aqua 2022* at 145; *Columbia Water 2024* at 90.

482 PAWC St. 13-R, p. 30.

yield.[483] We also disagree with PAWC that I&E inappropriately kept Middlesex Water in its proxy group for its DCF calculation.[484] As Mr. Patel convincingly explained, eliminating results on one side of a range of results introduces subjectivity and is inconsistent with the purpose of a proxy group.[485]

Regarding I&E's CAPM model, I&E witness Patel used 10-year Treasury notes,[486] which we agree mitigates the shortcomings of alternatively using either short-term Treasury bills or 30-year Treasury bonds, and is also consistent with I&E's models adopted by the Commission in *Aqua 2022* and *Columbia Water 2024*.[487] Also consistent with the Commission's decision in *Columbia Water 2024,* [488] we recommend the Commission reject PAWC's reliance ECAPM analysis because it introduces subjectivity to the CAPM analysis by reducing reliance on the company-specific beta variable.[489]

E. Business Risks and Management Performance

1. PAWC's Position

PAWC states that in this proceeding, Ms. Bulkley highlighted several crucial factors for consideration by the Commission, including: risk associated with capital expenditure program; [490] risks associated with environmental and water quality regulations; [491] and flotation

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483 I&E St. 2-SR, p. 24.

484 *See* PAWC MB at 95.

485 I&E St. 2-SR, p. 24.

486 I&E St. 2, p. 29; I&E Ex. 2, Sch. 4.

487 *Aqua 2022* at 145; *Columbia Water 2024* at 90.

488 *Columbia Water 2024* at 105.

489 *See* I&E St. 2, pp. 50-51.

490 PAWC St. 13, pp. 49-52.

491 *Id.* at 53-56.

costs.[492] PAWC avers that as Ms. Bulkley explained, these risks should be viewed in comparison to the proxy group companies, and the Company's alternative ratemaking proposals – the RDM and the ECIC – will not reduce PAWC's risk in comparison to those companies.[493] PAWC MB at 52.

PAWC asserts it also presented substantial evidence demonstrating that, in the face of the many risks and challenges, it exhibited excellent management performance in a variety of areas critically important to providing safe and reliable service, including the Company's (1) industry-leading programs to assist low-income and payment-troubled customers; (2) environmental record and commitment to water quality; (3) strong safety performance; (4) commitment to operational and water efficiency for the benefit of customers; (5) significant infrastructure investment; (6) community engagement and consumer education initiatives; (7) efforts to support the PUC's and PADEP's long-standing policy to eliminate the problems of small, troubled and nonviable water and wastewater systems by acquiring those systems and making the improvements needed to achieve and continue to provide safe and reliable service; and (8) efforts to extend service to meet the needs of customers without access to safe and reliable water service.[494] Ms. Bulkley determined that PAWC's superior management performance should be appropriately recognized by the Commission pursuant to Section 523 of the Code by granting an ROE at the upper end of the range of 10.00% to 11.25% she recommended.[495] If the Commission were to authorize an ROE less than 10.95%, Ms. Bulkley recommends that it add a management performance adjustment of no less than the 25-basis points proposed by Ms. Everette.[496] PAWC MB at 52-53.

In its Reply Brief, PAWC states that several parties raise issues in their Main Brief with respect to PAWC's business risks, generally asserting that PAWC either (i) faces the

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492 *Id.* at 46-48.

493 PAWC St. 13-R, pp. 77-82; PAWC St. 13-RJ, pp. 13-15.

494 PAWC St. 1, pp. 31-46.

495 PAWC St. 13, p. 75.

496 PAWC St. 1, p. 33.

same risks as all other water utilities, and its risks are either further reduced through the availability of the DSIC and other regulatory mechanisms in Pennsylvania or would be, if the RDM or ECIC were approved; and (ii) Ms. Bulkley improperly considered flotation costs in determining an ROE for PAWC.[497] PAWC RB at 40.

PAWC asserts that as Ms. Bulkley explained, any risk comparison of water and wastewater utilities cannot be made simply with reference to general regulatory mechanisms but must be made in comparison to the proxy group.[498] In the case of PAWC, Ms. Bulkley recommends an ROE above the mean of her calculated ROE range in light of the billions of infrastructure investment that PAWC has planned, which will require external capital.[499] Ms. Bulkley also determined that more than 59% of the companies in her proxy group have implemented some form of revenue decoupling mechanism and, as a result, PAWC has more risk than other companies in the proxy group without such a mechanism.[500] PAWC states that given that alternative ratemaking mechanisms are commonplace in the industry, approval of the RDM simply moves PAWC towards a similar risk level as other companies in the proxy group and does not require a reduction in PAWC's ROE, as the OCA and PAWLUG suggest.[501] PAWC argues that the fact that the percentage of water utilities with revenue decoupling mechanisms was lower than the percentage of distribution utilities (including electric and gas utilities) with such mechanisms made no difference. PAWC states there is no meaningful difference between distribution utilities with respect to whether they benefit from revenue decoupling.[502] Notably, several public utility commissions have found that revenue decoupling mechanisms do not require any downward ROE adjustment.[503] PAWC RB at 40-41.

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497 *See* I&E MB at 59-60; OCA MB at pp. 55-59; PAWLUG MB at 9-12.

498 PAWC St. 13, pp. 52-53.

499 PAWC St. 13, pp. 51-52; PAWC St. 13-RJ, p. 13.

500 PAWC St. 13, pp. 52-53

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501 PAWC St. 13-R, p. 78-81.

502 PAWC St. 13-R, p. 77.

503 *Id.* at 81-82.

PAWC states that similarly, after reviewing the substantial environmental risk and uncertainty PAWC faces and the magnitude of environmental compliance costs, Ms. Bulkley concluded that those risks supported an ROE above her proxy group mean and median.[504] In response to those parties who contended that approval of the ECIC should also reduce the ROE, Ms. Bulkley noted that the Company is facing environmental compliance costs from PFAS alone in the range of $200 million through 2027.[505] As with the RDM, she determined that approximately 79% of the utility operating companies in the proxy group have some form of capital recovery mechanism, the ECIC was similar to those mechanisms, and approval would therefore move PAWC towards the proxy group median.[506] PAWC RB at 41-42.

I&E asserts that Ms. Bulkley improperly attributed risk to flotation costs associated with the sale of new issues of common stock as these costs are purportedly recovered as an O&M expense or amortized over time on the books of the issuing company, while Mr. Garrett argues that PAWC either did not have such costs, or they were already accounted for by investors.[507] PAWC states that as Ms. Bulkley explained, flotation costs are part of the invested costs of the utility, which are properly reflected on the balance sheet under "paid in capital" and are not current expenses, and, therefore, are not reflected on the income statement.[508] PAWC asserts that the great majority of a utility's flotation costs are incurred prior to the test year but remain part of the cost structure that exists during the test year, and failure to allow recovery of past flotation costs constrains the opportunity to earn the required rate of return in the future.[509] PAWC states that Mr. Garrett's assertion that investors already accounted for flotation costs is inconsistent with both the calculations Ms. Bulkley provided and the literature supporting

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504 PAWC St. 13, p. 57.

505 PAWC St. 13-RJ, p. 15; PAWC St. 3, pp. 5-9.

506 PAWC St. 13-RJ, p. 15.

507 I&E MB at 59-60; OCA MB at 52.

508 PAWC St. 13, p. 46.

509 PAWC St. 13-R, pp. 70-71.

consideration of flotation costs as a cost of capital and therefore are an appropriate consideration in determining PAWC's required ROE.[510] PAWC RB at 42-43.

PAWC states that the OCA contends that any management performance enhancement is inconsistent with *Bluefield*, *Hope*, and the principle that rates must be within a zone of reasonableness – in other words, the Commission is essentially foreclosed from awarding *any* ROE adjustment.[511] PAWC argues that is clearly not the case. PAWC asserts the flaw in the OCA's argument is its presumption that whatever ROE is set by the Commission is the absolute highest ROE attainable, and it is not. As PAWC witness Bulkley explained, ROE models (including those of OCA's own witness) produce a range of results, and Ms. Bulkley's recommended ROE is well within that range.[512] PAWC states that similarly, the OCA's claim that the Company's proposed 25-basis point adjustment, if the Commission assigns an ROE of less than 10.70%, is "arbitrary,"[513] is incorrect. The Commission awarded the same amount in *Aqua 2022* in recognition of that utility's willingness to "answer the call" and provide emergency assistance to various water and wastewater systems that needed substantial improvement, concluding that "it would be inequitable to proceed otherwise" as "there is no provision in the Code that demands utilities exhaust employees or financial resources because of emergencies occasioned by others."[514] Notably, the Commission's Policy Statement on small nonviable water and wastewater systems explicitly endorses rate of return premiums to foster acquisitions of such systems.[515] PAWC RB at 43-44.

PAWC states that as in *Aqua 2022*, the evidence in this proceeding demonstrated PAWC's industry leadership in helping resolve the significant challenges faced by troubled

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510 *Id.*; *see also* PAWC St. 13, pp. 45-47.

511 OCA MB at 57.

512 PAWC St. 13-R, pp. 6, 84.

513 OCA MB at 58.

514 *Aqua 2022* at 172-73.

515 52 Pa. Code § 69.711.

water and wastewater systems. In the last ten years alone, the Company has completed sixteen acquisitions of very small, less-viable water and wastewater systems – systems with less than 1,000 customer connections each. The Company states that it has also completed the acquisitions of systems that were not, at the time of acquisition, providing adequate, efficient, safe, and reasonable service, including Delaware Sewer Company and Winola Water Company (where the Company also acted as receiver prior to acquisition). PAWC asserts that none of these acquisitions were under Section 1329, though some were eligible.[516] PAWC RB at 44.

PAWC notes that most recently, it agreed to act as receiver for the EDWA, after its water treatment plant ceased producing water and all customers were without even non-potable water for several days for basic sanitary and hygienic purposes, including bathing, dishwashing, and toilet flushing. When PADEP reached out to PAWC, the Company and PADEP jointly applied on an emergency basis for Commission approval for PAWC to be appointed receiver of a municipal authority), which the Commission provided,[517] and PAWC has now been appointed receiver.[518] PAWC RB at 44.

PAWC states that it also routinely extends service to customers without public water and/or wastewater service even in extraordinary circumstances of need. For example, in 2021, the Office of then Attorney General Josh Shapiro reached out to PAWC to ask if the Company would assist in helping to find a drinking water solution for a community of approximately 21 Dimock properties that have not had access to safe well water due to unsafe levels of methane and other contaminants for approximately 15 years.[519] PAWC RB at 45.

PAWC states that in recognition of the severe water quality problems facing this community, it voluntarily worked to develop a plan for the most effective public drinking water

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[516] PAWC St. 1, pp. 42-43.

[517] *Id.* at 43-45; *see also Joint Petition of Pa.-American Water Co. and the Pa. Dept. of Env't Prot. Requesting an Ex Parte Emergency Order in Regard to Receivership of East Dunkard Water Auth.*, Docket No. P-2023-3043950 (Order entered Nov. 1, 2023).

[518] *See Commonwealth v. E. Dunkard Water Auth*., 557 MD 2022 (Pa. Cmwlth. Feb. 8, 2024).

[519] PAWC St. 1, pp. 45-46.

system for Dimock residents, and in November 2022, the Company and the Office of Attorney General presented the proposed system design to Dimock residents who expressed strong support for the project. Subsequently, the Office of Attorney General entered into a Plea Agreement with a third party under which PAWC's construction of this project is fully funded, and thus provides the benefit of public water to these residents without a cost to other PAWC customers.[520] The Company's Application related to the new Dimock system was filed at the Commission on October 13, 2023, and approved on January 18, 2024.[521] PAWC RB at 45.

PAWC states that it has made substantial investments in other systems that it acquired in recent years.[522] PAWC asserts that contrary to the contentions of both the OCA and I&E, many of the actions and investments that PAWC undertakes go well beyond what is required by the Code and federal and state regulations, including the Company's environmental accomplishments, which are reflected in PAWC's national recognition for performance above and beyond regulatory standards.[523] As PAWC witness Everette testified, PAWC's performance is exemplary in a large number of areas, including water quality, safety, low-income programs, investment in Pennsylvania, and community support.[524] PAWC avers that while I&E excerpts a portion of the Company's recent management audit to suggest that PAWC did not meet expectations, Ms. Everette noted in her testimony that none of the 12 areas highlighted by I&E were marked for significant or major improvement, eight were simply marked for "minor improvement necessary," and the Company had already filed an implementation plan in which it accepted the majority of the Commission's recommendations and partially accepted the

[520] *Id*.

[521] *Application of Pa.-American Water Co. (PAWC) for approval of: (1) the right to offer, render, furnish and supply water service to the public in a portion of Dimock Twp., Susquehanna Cnty.; (2) as necessary, an Offsite Dev. Marketing Agreement by and between PAWC and the Off. of the Attorney Gen.; and (3) as necessary, limited waivers of PAWC's Tariff Water-PA P.U.C. No. 5,* Docket No. A-2023-3043501 (Order entered Jan. 18, 2024).

[522] PAWC St. 15-R, p. 11; PAWC St. 3-R, p. 10.

[523] PAWC St. 1, p. 37.

[524] *Id*. at 39-41.

remainder.[525] PAWC states that similar allegations regarding the Company's call center performance, complaint handling, arrearages and other service issues were fully addressed.[526] PAWC RB at 45-47.

2. I&E's Position

I&E states that as its witness Patel explains, capital spending is nothing particularly unique to PAWC.[527] Aging infrastructure is a common problem for water and wastewater utilities in Pennsylvania that generally requires significant investment. As Mr. Patel explains, this simply positions PAWC similarly to the other water utilities in her proxy group, and further, as Ms. Bulkley acknowledges each of the industries in her proxy group face similar risks.[528] I&E MB at 59.

I&E avers that stock issue flotation costs are, in fact, accounted for and recovered as an O&M expense or amortized over time on the books of the issuing company. Therefore, it would be inappropriate to take into account the potential impact thereof to seek a higher ROE in a base rate case. I&E MB at 59.

I&E avers that the DSIC, along with the ECIC and RDM, if approved, would all serve to lessen the Company's business risk. I&E argues that nothing demonstrates that PAWC is any riskier that other water and wastewater utilities. I&E concludes that business risk is already accounted for in I&E witness Patel's proxy group and does not need to be further accounted for when setting PAWC's ROE. I&E MB at 60.

I&E asserts that the essence of true strong management performance is earning a higher return through efficient use of resources and cost cutting measures. The greater net

525 PAWC St. 1-R, pp. 14-15.

526 PAWC MB at 91-97; *see also* PAWC St. 9-R, pp. 2-10; PAWC St. 14-R, pp. 25-28.

527 I&E St. 2, p. 54.

528 I&E St. 2, p. 54-55.

income resulting from cost savings and true efficiency in management and operations is then available to be passed on to shareholders. Therefore, PAWC, or any utility, should not be awarded additional rate of return basis points for doing what they are required to do in order to provide adequate, efficient, safe, and reasonable service under 66 Pa.C.S. § 1501 and for increasing profits as they are incentivized to do by their board of directors and shareholders.[529] I&E MB at 60-61.

In this proceeding, the Company has requested a 25 basis point addition to its ROE for "management performance." As explained by I&E witness Patel and OCA witness Garrett, this 25 basis point addition would amount to approximately $11.8 million per year in rates.[530] I&E states that this amount is unsupported and excessive and must be denied. I&E notes that the Commission affirmed the Administrative Law Judge's denial of management performance points in *Columbia Gas 2021*. I&E MB at 61.

Additionally, a review of the Management and Operations Audit Report, prepared by the Commission's Bureau of Audits, illustrates that out of the twelve functional areas, PAWC does not meet expectations in any.[531] I&E MB at 63-64.

I&E acknowledges that in its Order in the most recent Aqua Pennsylvania base rate case (*Aqua 2022)* the Commission granted Aqua an award of 25 basis points for management performance. The Commission explained that the additional 25 basis points were appropriate given that "…Aqua carries a roster of large and complex emergency aid matters *unlike any other Pennsylvania utility* (emphasis added)."[532] I&E states that the Commission has specifically distinguished Aqua from other Pennsylvania utilities as taking on matters that other utilities do not. Therefore, while I&E disagreed, the Commission found it appropriate to award Aqua for their endeavors. I&E MB at 64.

529 I&E St. 2, p. 81.

530 I&E St. 2, p. 80; OCA St. 2, p. 50.

531 Management and Operations Audit of Pennsylvania-American Water Company, prepared by The Pennsylvania Public Utility Commission, Bureau of Audits at Docket No. D-2022-3035217, October 2023.

532 *Id at* 173.

I&E avers that in contrast, PAWC has not presented evidence which should persuade the Commission that granting additional basis points for management performance is warranted. I&E states that additionally, PAWC witness Bulkley's requested ROE is far above what has been approved in recent Commission history. I&E states that PAWC has neither demonstrated that it is entitled to management performance points added to its ROE and has failed to demonstrate why its customers should be burdened by the cost. I&E states that therefore, the management performance points requested by PAWC should be denied. I&E MB at 65.

3. OCA's Position

The OCA argues that PAWC has not demonstrated by a preponderance of evidence that its request for a management performance adder of up to 25 basis points is either necessary or just and reasonable. The OCA asserts that the requested increment of 25 basis points in ROE is unsupported and excessive[533] and at PAWC's as filed request it would impose up to $11.8 million of additional costs on ratepayers per year.[534] OCA MB 55.

The OCA avers that under no circumstances is the Commission obliged to grant a management performance in determining the authorized ROE under the constitutional limits because a reward for management performance is not commensurate with returns on investments in other enterprises having corresponding risks. Under the constitutional standards, the return need only be "equal to that being made at the same time on investments in other business undertakings which are attended by corresponding risks and uncertainties"[535] and "commensurate with returns on investments in other enterprises having corresponding risks" while being sufficient "to assure confidence in the financial integrity of the enterprise, so as to

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533 OCA St. 3, pp. 48-50; OCA St. 3SR, pp. 8-11; Tr. 2113.

534 OCA St. 2, Ex. LA-6 at 2.

535 *Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of W.Va.*, 262 U.S. 679 (1923) at 692.

maintain its credit and attract capital."[536] The OCA argues that as OCA witness Garrett testified, investors cannot expect an additional ROE simply due to prudent managerial performance when they invest in competitive firms in the marketplace.[537] OCA MB at 55-56.

The OCA states that the primary driver of the cost of equity and required rate of return is how market risk impacts individual firms, managerial performance does and should not have an increasing effect on a utility's authorized ROE.[538] Specifically, managerial performance and the risk of imprudent management is related to firm-specific risks, *which are not rewarded by the market* because investors can eliminate such risk through diversification of portfolio, and do not have a material effect on the cost of equity.[539] As investors in competitive firms in the marketplace cannot expect an additional ROE simply due to a firm's prudent managerial performance, shareholders of a regulated utility should not receive any premium in addition to an authorized market-based ROE due to the utility's prudent managerial performance.[540] OCA MB at 56 (emphasis in original).

The OCA avers that the Company's adder request thus becomes a question of whether it is an appropriate exercise of Commission discretion to grant the adder. The OCA argues that the record does not support this conclusion and the Commission would be acting *outside the zone of reasonableness* to grant PAWC's request for the adder, *as the adder is nothing more than an unsubstantiated excessive rate*, and it is the Commission's responsibility to protect future and present consumers from excessive rates.[541] Rates that are determined by the Commission to be in conformity with the just and reasonable standard and intended to "balance

536 *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) at 603.

537 OCA St. 3, p. 49.

538 OCA St. 3, p. 48; OCA St. 3SR, p. 8
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539 OCA St. 3, p. 48; OCA St. 3SR, p. 8.

540 OCA St. 3, p. 48; OCA St. 3SR, p. 8.

541 *See Permian Basin* at 794-95, 797.

the investor and the consumer interests" are constitutionally permissible.[542] OCA MB at 56-57 (emphasis in original).

The OCA states that the Company's reliance on Section 523 of the Code as a basis for granting the adder should be rejected. While Section 523 authorizes the Commission to consider the efficiency, effectiveness and adequacy of service when determining just and reasonable rates, it requires the Commission to "give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate."[543] The OCA argues that it would be *neither proper nor appropriate* for the Commission to award shareholder interests on the basis of prudent managerial performance when shareholders themselves cannot expect an additional ROE simply due to prudent managerial performance when they invest in competitive firms in the marketplace.[544] Given that the adder is nothing more than *an excessive rate that is outside the zone of reasonableness*, it would be neither proper nor appropriate for the Commission to grant the adder as the adder *does nothing to incentivize or ensure PAWC's managerial performance going forward to meet its public service requirements mandated by law*. OCA MB at 57 (emphasis in original).

The OCA avers that furthermore, PAWC has not substantiated its request. Cost of capital analyses are generally accepted by the Commission as a basis for determining a fair rate of return under the just and reasonable standard of the Code.[545] PAWC witness Ms. Bulkley testified that she took into consideration "superior management performance" in proposing her recommended 10.95% ROE for the Company.[546] The OCA avers that Ms. Bulkley cannot demonstrate how she took this into consideration other than through her subjective decision to do

542 *Id at* 770.

543 66 Pa.C.S. § 523 (emphasis added).

544 OCA St. 3, pp. 48-49; OCA St. 3SR, p. 8.

545 *Pa. PUC v. Philadelphia Suburban Water Co.*, 71 Pa. PUC 593 (1989) at 623.

546 PAWC St. 13, p. 8.

so, as Ms. Bulkley admitted on cross-examination that neither the DCF Model nor CAPM analyses account for managerial performance[547] OCA MB at 57-58.

The OCA asserts that moreover, PAWC has not substantiated the specific amount of 25 basis points other than to say that adopting it would place the Company's ROE within Ms. Bulkley's range, but this does not explain the specific request for 25 basis points.[548] The OCA states that the adder is, thus, completely arbitrary, and not market based. Given that the Company's requested amount of the adder is arbitrary and unsupported, it would likewise be arbitrary for the Commission to award the requested up to 25 basis points amount. OCA MB at 58.

The OCA states that while Mr. Ladner's and Ms. Everette's testimony explain how PAWC is behaving to comply with its public service obligations under the law, it does not demonstrate why it would be appropriate or proper for the Commission to add an arbitrary adder to the ROE as a reward to the Company. Importantly, the legal standards of *Bluefield* and *Hope* <u>*do not establish the fair rate of return as a "quid-pro-quo" concept*</u> where arbitrary increments to cost of equity are awarded to a utility's shareholders in return for a utility's management operating the public utility company in a prudent manner as required by law.[549] OCA MB at 58-59 (emphasis in original).

The OCA states that the Commission should find that it is outside the zone of reasonableness to award shareholders with a bump to the ROE on the basis of a utility's past and/or current managerial performance. The OCA avers that if the Commission disagrees, the Commission should not grant the requested adder in this case because the Company has not demonstrated that its managerial performance is exemplary in all areas of service to its customers, as based on the well-documented reasons set forth in testimony of OCA witnesses

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547 Tr. 2113.

548 OCA St. 3SR, pp. 10-11.

549 OCA St. 3, p. 49; OCA St. 3SR, p. 11.

Roger Colton and Barbara Alexander.[550] The Commission should take into consideration the full range of customer experiences and interactions with PAWC in considering this request as documented with evidence of OCA witnesses Colton's and Alexander's testimony as well as the unprecedented volume of customer opposition to this rate increase.[551] OCA MB at 59.

The OCA states that PAWC has been inconsistent with its own hand-selected criteria for measuring whether PAWC deserves the requested adder. PAWC witness Ms. Everette's direct testimony stated that PAWC's shareholders contribute more money to the H2O hardship grant program than any other water utility and <u>*that such commitment will increase by $700,000 in late 2023*</u>, based on PAWC's commitments in the BASA Settlement.[552] However, in oral rejoinder, PAWC witness Dean testified:

> [T]he Company does not support an expansion of hardship fund eligibility that is independent of the BASA Settlement…If the BASA acquisition does not close for some reason, neither the increased hardship fund contribution amount or income eligibility threshold is reasonable.[553]

The OCA concludes that the Commission should deny PAWC's request for a management performance adder. OCA MB 59-60.

In its Reply Brief, the OCA reiterated its position that the Company has not substantiated its request for a 25 basis point adjustment and that the testimony of OCA witnesses Alexander and Colton demonstrate that the Company's performance in customer experiences and interactions with PAWC do not merit an adder. OCA RB at 35-39.

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550 OCA St. 5, pp. 110-124; OCA St. 6, pp. 7-24.

551 OCA St. 6SR, pp. 4-5.

552 PAWC St. 1, p. 34.

553 Tr. 2023-24.

4. ALJs' Recommendation

We recommend that the Commission award an upward adjustment of 10 basis points to PAWC's Return on Equity in recognition of PAWC's business risks and management performance. We are primarily persuaded by PAWC's arguments that an adjustment is merited because in the last ten years the Company has completed sixteen acquisitions of very small, less-viable water and wastewater systems and the Company has also completed the acquisitions of systems that were not, at the time of acquisition, providing adequate, efficient, safe and reasonable service, including Delaware Sewer Company and Winola Water Company (where the Company also acted as receiver prior to acquisition). We note that PAWC asserts that none of these acquisitions were under Section 1329, though some were eligible. As PAWC references, the Commission's Policy Statement on small nonviable water and wastewater systems explicitly endorses rate of return premiums to foster acquisitions of such systems.[554] We also acknowledge PAWC's assertion that it provides service to customers in extraordinary circumstances further supports an upward adjustment.[555] In awarding an upward adjustment in *Aqua 2022*, the Commission similarly recognized "Aqua's efforts and willingness to quickly provide emergency aid to various water and wastewater systems that needed substantial improvement."[556]

We disagree with the OCA's position that awarding an upward adjustment on management performance would cause the Commission to act outside the zone of reasonableness and that the adder is nothing but an unsubstantiated excessive rate.[557] As the OCA recognizes, Section 523 of the Code authorizes the Commission to give effect by making such adjustments to a utility's cost of service as the Commission may determine is proper and appropriate. Although the OCA asserts an adjustment is not warranted because it is neither proper nor appropriate to

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554 PAWC RB at 44 (citing 52 Pa. Code § 69.711).

555 PAWC RB at 45.

556 *Aqua 2022* at 169.

557 *See* OCA MB at 56-57.

award shareholder interests on the basis of "prudent managerial performance,"[558] consistent with the Commission's decision in *Aqua 2022*, the willingness to answer calls for aid to other water and wastewater providers shows that PAWC is doing more than is required under Section 1501 of the Code.[559]

Although we recommend a 10 basis point adjustment above based on specific circumstances, we otherwise agree with the OCA that PAWC's testimony of activities supporting a 25 point adder to the ROE better reflect PAWC complying with its public service obligations under the law, rather than providing extraordinary service.[560] The OCA also convincingly demonstrated that the Company did not show its service was exemplary in all areas.[561] Additionally, the significant amount of criticism voiced by PAWC customers, whether through filing of complaints or participation at public input hearings, also merit against finding a full award of PAWC's requested 25 basis point adjustment. For all these reasons, we recommend that the Commission only award a 10 basis point upward adjustment for business risks and managerial performance.

XI. RATE STRUCTURE AND RATE DESIGN

A. Cost of Service Studies – Water Operations

1. PAWC's Position

Ms. Heppenstall of Gannett Fleming prepared PAWC's COSS for PAWC's water operations ("Water COSS") using the base-extra capacity method for allocating costs to customer classifications.[562] This method is described in the American Water Works

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558 OCA MB at 57.

559 *Aqua 2022* at 173.

560 OCA MB at 58-59 (citing PAWC St. 1, pp. 33-46; PAWC St. 15R).

561 OCA St. 5, pp. 110-124; OCA St. 6, pp. 7-24.

562 PAWC St. 12, pp. 6-16; PAWC Ex. 12-A Revised (Water Operations).

Association's Water Rates Manual ("AWWA Manual") and has been accepted by the PUC as the appropriate methodology for determining class costs of service.[563] PAWC MB at 54-55.

PAWC's proposed system-wide maximum day demand factor (1.4) reflects the maximum daily send-out of the Company since its formation in 1987. As Ms. Heppenstall testified, the Company's actual maximum day send out was 1.4 times average day send out in each of the years 1988, 1995, 1996, 1999 and 2003 and PAWC experienced system-wide maximum day factors close to that value in other years since 1987.[564] Additionally, the water usage on the maximum day of 2021 in several areas within PAWC's overall water operations was more than 1.4 times the average usage for that year.[565] While OCA witness Mierzwa and OSBA witness Higgins propose using 12-year look-back period and a maximum day factor of 1.2, which was experienced in 2012 and is the highest maximum day factor within that limited 12-year window,[566] PAWC maintains that the 1.4 system-wide maximum day demand factor PAWC employed in the Water COSS produces a diversity factor that is reasonable based on the range recommended in the AWWA Manual.[567] PAWC MB at 55-56.

PAWC also argues that the PUC should reject the OCA's and the OSBA's proposal to use a maximum hour demand factor of 1.5 and 1.8, respectively in lieu of the 2.1 factor Ms. Heppenstall employed in the Water COSS based on a detailed analysis of PAWC's actual maximum hour send out. Mr. Mierzwa and Mr. Higgins reject the results of the PAWC-specific analysis that has been accepted in many prior cases, simply because, in their estimation, the analysis was conducted too long ago.[568] PAWC notes, however, they did not conduct their own analysis of maximum hour send out. Instead, Mr. Mierzwa proposes a maximum hour ratio

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563 PAWC St. 12, pp. 6-7.

564 PAWC St. 12-R, p. 5; *see also* PAWC Ex. 12-A Revised, Sch. E, p. 5.

565 PAWC Ex. CEH-2R; PAWC Ex. CEH-1SR.

566 OCA St. 4, pp. 15-16; OSBA St. 1-R, pp. 10-11.

567 PAWC St. 12-R, pp. 6-8.

568 OCA St. 4, p. 16-17; OCA St. 4-SR, pp. 7-8.

derived from demand data for The York Water Company and Mr. Higgins proposes a maximum hour factor derived from his recommended adjustment to the maximum day factor.[569] PAWC MB at 56-57.

PAWC argues that the OCA's proposal for a large, multi-year study of PAWC's system-wide maximum hour demands prior to its next rate case is unwarranted. Mr. Mierzwa has not even alleged, let alone provided any basis to contend, that the results of the Company's 1988 study of actual maximum hour send-outs from water storage tanks are inaccurate. Moreover, in performing such an analysis, the Company faces challenges in accurately measuring maximum hour demand in districts with multiple groundwater sources due to a number of factors, such as missing SCADA connections, tank filling, and metering issues.[570] PAWC MB at 57.

OCA witness Mierzwa also contends that interruptible industrial usage should be included in the extra capacity allocations because those customers have not been regularly interrupted during periods of peak demand.[571] However, these customers need to be prepared for a curtailment in water service even if their usage is not curtailed historically.[572] Moreover, PAWC's water COSSs have excluded industrial curtailment usage since at least the Company's 2007 rate case at Docket No. R-00072229, which has long been accepted by the Commission and other parties.[573] PAWC MB at 57.

PAWLUG witness LaConte expresses concern that the demand study statistics used in the Water COSS, which include the maximum day and maximum hour demand factors for each customer class, are outdated and do not account for changes in consumption patterns.[574]

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569 PAWC St. 12-R, p. 8; PAWC St. 12-SR, p. 3.

570 PAWC St. 12-R, p. 10.

571 OCA St. 4, p. 14; PAWC St. 4-SR, pp. 9-10.

572 PAWC St. 12-R, p. 10.

573 *Id.*

574 PAWLUG St. 1, p. 21.

PAWC avers that Ms. LaConte fails to recognize that if the residential class is using a greater share of the overall sale of water, this will be reflected in the COSS since usage factors are based on annual pro forma billed usage.[575] She also recommends that the Company use the actual maximum hour demand ratio from the results of PAWC's demand study that was conducted over the period 2013 to 2015 (the "Demand Study").[576] Ms. LaConte's alternative COSS using the revised ratio increases the costs of service allocated to the residential class by $7.6 million and decreases the increase to other classes by between 0.7% and 6%.[577] PAWC MB at 57-58.

Ms. LaConte points to the fact that the Company used a maximum hour demand ratio of 5.0 when the Demand Study shows a ratio of 6.0. As Ms. Heppenstall explained, the 6.0 demand ratio occurred in 2015 when the hourly data for North Strabane, a larger monitoring area, was not available, and the peak usage for Shire Oaks was on February 22, 2015, rather than a summer day.[578] As a result, PAWC appropriately chose to use a max hour demand ratio of 5.0. PAWC MB at 58.

2. I&E's Position

Regarding the COSS for Water Operations, I&E witness Cline made no recommended changes. Additionally, regarding the customer cost analysis, witness Cline recommended the results of the Company's more direct customer cost be used to determine the customer charge. I&E MB at 67; I&E RB at 26.

3. OCA's Position

The OCA avers that PAWC's Maximum Day Demand Factor is outdated and not representative of PAWC's actual system-wide experience. PAWC tries to justify using an

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575 PAWC St. 12-R, p. 9.

576 PAWLUG St. 1, p. 22.

577 PAWLUG Ex. BSL-3; PAWC St. 12-R, p. 4.

578 *See* PAWC St. 12-R, pp. 8-9; PAWC Ex. CEH-3R.

outdated maximum day factor that was last experienced in 2003, over twenty years ago. However, the OCA avers that the Company ignores several facts in its justification. First, the guidance that PAWC witness Heppenstall relies on for her allocation methodology, the American Water Works Association Rates Manual, states that demand data over a representative number of recent years should be used for the allocations.[579] Demands experienced 20 years ago are not "recent" or representative of current demands.[580] Since 2003, water demand on the PAWC system has changed due to aggressive water conservation, legislation, development, and changing land uses.[581] Second, the Company ignores that the Manual considers system-wide maximum day usage, not maximum day usage in individual areas.[582] All 38 areas of PAWC's system do not peak on the same day or even the same month.[583] Lastly, the Company ignores that its diversity ratio is based on a demand analysis prepared for 2013-2015 and does not reflect declines in customer usage estimated by PAWC witness Rea to support PAWC's claim for a declining usage adjustment to revenues in this case.[584] Accordingly, the OCA maintains that a 1.2 factor should be used in the water CCOS study.[585] OCA RB at 40.

Additionally, the OCA argues that PAWC's Maximum Hour Demand factor is so outdated that it cannot reasonably be claimed to represent PAWC's actual recent demand. Both the OCA and OSBA challenged PAWC's proposal to continue relying on demand data from a 1998 analysis to determine a maximum hour demand factor for its CCOS study.[586] PAWC ignores that PAWC's data and analysis is increasingly less reliable with each rate case and cannot reasonably be considered "representative" of PAWC's actual, recent customer demands,

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579 OCA St. 4SR, p. 3 (*citing* Manual at 373).

580 *Id at* 3-4.

581 OCA St. 4, pp. 15-16.

582 OCA St. 4SR, p. 4.

583 Tr. 2093; PAWC Ex. CEH-1SR; PAWC Ex. CEH-2R.

584 PAWC St. 10, p. 72; OCA St. 4SR, pp. 3-4, 6; OSBA St. 1R, pp. 11-12.

585 OCA St. 4SR, Sch. JDM-2SR.

586 OCA St. 4, pp. 15-17; OCA St. 4SR, pp. 6-9; OSBA St. 1R, pp. 9, 13.

particularly where PAWC's own witness makes an adjustment to the Company's revenues for the future test years to reflect what he claims has been a "significant and pervasive decline in usage for [residential, commercial and municipal] classes over the past ten years."[587] OCA RB at 40-41.

While the OCA recommends a 1.5 maximum hour demand factor and OSBA recommends 1.8, both parties demonstrate that the 2.1 maximum hour factor used by PAWC is significantly overstated. Accordingly, the OCA asserts that prior to its next rate filing, PAWC should be required to update its analysis of system wide maximum hour extra capacity demands and then include the results of its updated analysis in its water CCOS study for that case. OCA RB at 41.

Additionally, the OCA argues that interruptible usage should be included in the extra capacity factor allocations because interruptible Industrial customers are regularly served during periods of peak demand. The OCA avers that there is no factual premise for excluding interruptible Industrial usage in the extra capacity factor allocations. The unrebutted evidence shows these interruptible Industrial customers have not been interrupted in the last 20 years.[588] Since these Industrial customers have had uninterrupted usage of the system during periods of maximum day and hour demands, there is no reasonable basis to exclude that usage from the maximum day and hour extra capacity factor allocations.[589] This is consistent with PAWC witness Heppenstall's testimony in a recent rate proceeding for a gas distribution utility, where she opined that interruptible customers that had not been interrupted in nearly 20 years should be treated the same as firm customers in the cost of service study:

> Ms. Heppenstall continued, "[e]ven though PGW does not include interruptible load in calculating its peak design day demand, PGW does provide gas during the period of

[587] PAWC St. 10, pp. 67-72, 78-79.

[588] OCA St. 4SR, p. 9 (citing PAWC response to OCA-35-9).

[589] OCA St. 4SR, p. 9.

> Interruptible classes' peak day demand. Therefore, the cost allocation should reflect that service."[590]

OCA RB at 41-42.

The OCA notes that PAWLUG has argued that *PGW 2023* should be distinguished because the interruptible customers here are not a separate class, they are part of the larger Industrial class, which is mostly made up of firm customers. As such, PAWLUG argues that including interruptible usage as firm would cause firm Industrial customers to subsidize costs. The OCA avers that this argument is incorrect and misleading because the failure to include the maximum day and hour demands of interruptible customers in determining the cost of serving Industrial customers subsidizes the entire Industrial class (since the same rates are generally applicable to all Industrial customers),[591] by increasing the rates of all other customer classes. Industrial customers are being subsidized by all other firm customers because PAWC's interruptible maximum day and maximum hour extra capacity factor allocations have not been aligned with cost causation, i.e. have not been based on those customers' actual usage of the system. Thus, notwithstanding that PAWC has excluded interruptible usage in its water CCOS study in prior cases, the facts and precedent demand a different result here and these customers should be included in the extra capacity factor allocations. OCA RB at 42-43.

Lastly, the OCA argues that PAWLUG's position regarding PAWC's water CCOS study, that PAWC should have used a higher maximum hour demand ratio of 6.0 rather than 5.0, which would increase the cost of service allocated to the residential class by $7.6 million, is flawed. The OCA counters that while Residential demand is likely to have increased in recent years, their maximum demands will have decreased due to fact that the days and number of hours that water can be used are less concentrated when people work at home.[592] Also, if the residential class is using a greater share of the overall sale of water, this will be

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590 *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, 2023 Pa.P.U.C. LEXIS 298, *75 (Order Nov. 9, 2023) (*PGW 2023*).

591 *See* PAWC Supp. 45 to Tariff Water No. 5, page 16.2.

592 OCA St. 4R, pp. 15-16.

reflected in the CCOS study since usage factors are based on annual pro forma billed usage.[593] Moreover, the maximum hour ratio of 6.0 was based on "unreliable" flow data and "very anomalous events."[594] Accordingly, the OCA maintains that there is no evidentiary basis to support a higher maximum hour demand ratio for the Residential class and PAWLUG's recommendation should be denied. However, the OCA agrees with PAWLUG witness LaConte that prior to its next base rate case, PAWC should conduct a new demand study to ensure current usage and demand patterns are properly reflected in PAWC's water CCOS study for that case.[595] The OSBA also supports this recommendation.[596] OCA RB at 43-44.

4. OSBA's Position

OCA witness Mierzwa observed that the maximum day and maximum hour weightings utilized by PAWC in its base-extra capacity allocation factors are outdated. PAWC utilizes a maximum day factor of 1.4, which is calculated using the ratio of the *maximum day* to the *average day* observed in 1988, 1995, 1996, 1999 and 2003. Mr. Mierzwa noted that that PAWC's maximum hour factor of 2.1 is based on a 1988 analysis of PAWC's three largest operating districts, and that PAWC does not have any recent actual hour data for its water system.[597] OSBA MB at 16.

Mr. Mierzwa recommends utilizing a maximum day extra capacity factor of 1.2 based on the actual maximum day ratios since 2011. Moreover, PAWC's Schedule G demonstrates that the Company's system-wide maximum day ratios have been trending downward over time. In the most recent ten-year period of data available, 2013-2022, the highest annual ratio is 1.16. The OSBA agrees with Mr. Mierzwa that a maximum day ratio of

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593 PAWC St. 12R, p. 9.

594 OCA St. 4R (citing PAWC's response to PAWLUG-01-002, Att. at 21); PAWC St. 12R, pp. 8-9, Ex. CEH-3R.

595 OOCA St. 4R, p. 17.

596 OSBA St. 1R, p. 13.

597 OSBA St. 1-R, pp. 8-9.

1.2, which more accurately represents PAWC's system usage characteristics for the past decade than PAWC's recommended factor of 1.4, is more appropriate for PAWC's system and should be adopted in this proceeding. OSBA MB at 16-17; OSBA RB at 11.

Additionally, Mr. Mierzwa explains that the 2.1 maximum hour factor utilized by PAWC is based on a 1988 analysis and recommends that PAWC should be required to update its analysis of system-wide maximum hour extra capacity demands prior to its next base rate proceeding.[598] The OSBA agrees with this recommendation. Although Mr. Mierzwa recommends utilizing a maximum hour factor of 1.5, using a study conducted by The York Water Company, the OSBA recommends the use of a maximum hour factor of 1.8. This maintains the same proportionate relationship between the maximum hour and the maximum day as the factors utilized by PAWC when adopting the OSBA's proposed maximum day factor of 1.2 (*i.e.*, 1.2 / 1.4 and 1.8/2.1). OSBA MB at 17; OSBA RB at 11.

5. PAWLUG's Position

PAWLUG does not contest PAWC's proposal to utilize the base extra capacity methodology for the water COSS. However, PAWLUG opposes PAWC's proposed maximum hour demand ratio proposed for the Residential customer class. PAWLUG avers that the Commission should adjust PAWC's proposed COSS to use the actual maximum hour demand ratio for the Residential customer class. PAWLUG MB at 13-14.

PAWLUG also opposes various proposals to adjust PAWC's COSS proposed by other parties. First, PAWLUG references OCA's proposal to treat Interruptible usage as firm for purposes of COSS. OCA bases its proposal on the Commission's recent decision in a Philadelphia Gas Works ("PGW") rate case.[599] In the *PGW Order*, the Commission agreed with PGW that interruptible demand should be treated as firm for purpose of PGW's COSS. OCA

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598 OSBA St. 1-R, p. 13.

599 *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. R-2023-3037933, at 111-112, 138-139 (Opinion and Order entered Nov. 9, 2023) ("*PGW Order*").

requests that the Commission make the same finding here on grounds that PAWC's sole interruptible customer has not been interrupted in 20 years.[600] PAWLUG disagrees with OCA, noting that OCA's proposal to simply include interruptible usage with Industrial customer class allocation for extra capacity demand costs does not align with cost causation because the vast majority of PAWC's Industrial customers are firm service customers and are already paying rates set in alignment with cost causation for firm service. PAWC witness Heppenstall noted that "this adjustment to the cost of service for Industrial curtailment customers has been reflected in the Company's cost of service studies since at least the Company's 2007 rate case and Docket No. R-00072229 and has long been accepted by the Commission and other parties."[601] As the Industrial Curtailment volumes have been excluded from each COSS over PAWC's subsequent rate cases, the rates developed for the Industrial General Service class throughout PAWC's rate cases were set in consideration of the cost of service for firm Industrial customers. PAWLUG contends that increasing the cost of service for PAWC's Industrial class to now include Interruptible usage creates substantial complications not present in the PGW case, including a likelihood of intraclass subsidization of PAWC's sole interruptible Industrial customer by the remaining firm Industrial customers. PAWLUG MB at 13, 17.

Lastly, both OCA and OSBA developed estimated systemwide maximum demand allocators that PAWLUG should be rejected in favor of prospective solutions to comprehensively update PAWC's demand data. PAWLUG MB at 13, 18-20.

6. Cleveland-Cliffs’ Position

PAWC witness Heppenstall filed a revised COSS as part of her Rebuttal Testimony that included several corrections to PAWC’s original filing. PAWC’s revised COSS generates relative rates of return (“RROR”) for the Residential, Commercial, and Industrial classes range from 0.98 to 1.03; and the Public class RROR is at 1.16. Based on PAWC’s revised COSS, Cleveland-Cliffs recommends that the Commission apply an equal percentage

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600 OCA St. 4SR, p. 9.

601 PAWC St. 12-R, p. 10.

increase for the Residential, Commercial, Industrial, and Public classes. The Residential, Commercial, and Industrial classes are tightly grouped around the system average based on the most recently corrected COSS. Although the Public class is above the system average rate of return (RROR of 1.16), the large swing between the various COSS results that were presented in this proceeding (by PAWC and intervenors) warrants some caution in terms of its revenue increase percentage. Therefore, Cleveland-Cliffs believes it is reasonable to apply the same percentage increase to each customer class in this proceeding.[602] Cleveland-Cliffs MB at 1-3.

7. Victory Brewing's Position

PAWC presented the testimony of Constance E. Heppenstall from Gannett Fleming Valuation and Rate Consultants, LLC,[603] who sponsored the Company's COSS.[604] For Exhibit 12-A, Ms. Heppenstall used the base-extra capacity method to allocate costs of water operations. As explained by Ms. Heppenstall, the base-extra capacity method described in her exhibit has been accepted by the Commission for use by the Company and other water utilities in the Commonwealth.[605] Given the prior accepted use of the studies relied upon by PAWC witness Heppenstall, Victory Brewing has not challenged these methods and accepts the results. Victory Brewing MB at 7.

8. ALJs' Recommendation

PAWC's COSS for water operations in this proceeding used the base-extra capacity method. As noted by the Company, this is a recognized method for allocating the cost of providing water service to customer classifications in proportion to each classification's use of the commodity, facilities, and services of a water utility and has been accepted by the

602 Cleveland-Cliffs St. 1-R, pp. 9-10.

603 PAWC St. 12.

604 PAWC Exs. 12-A through 12-E.

605 Cleveland-Cliffs St. 1, p. 2.

Commission for this purpose.[606] As noted by the Company, it used this method in previous base rate cases, including the most recent base rate case at R-2022-3031672, and the Commission has accepted it for use by the Company and other water utilities in Pennsylvania.[607]

Additionally, the Company proposed using a system-wide maximum day demand factor of 1.4 and 2.1 maximum hour demand factor.

We find that the cost of service study methods and factors used by PAWC for its water operation is reasonable and consistent with past practice. Accordingly, we recommend that the Commission adopt the Company's cost of service study.

However, while we are recommending adopting PAWC's cost of service study, we do agree with OCA that for PAWC's next base rate case, PAWC should be required to update its analysis of system wide maximum hour extra capacity demands and then include the results of its updated analysis in its water CCOS for that case. PAWC's analysis of system wide maximum hour extra capacity should be updated to better reflect demands on PAWC's system.

B. Cost of Service Studies – Wastewater Operations

1. PAWC's Position

For PAWC's SSS operations, Ms. Heppenstall's COSSs were prepared using the functional cost allocation methodology described in "Financing and Charges for Wastewater Systems," Manual of Practice No. 27, published by the Water Environment Federation.[608] That allocation methodology was modified to determine the incremental cost related to handling

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606 PAWC St. 12, p. 6.

607 *Id at* 6-7.

608 PAWC St. 12, pp. 16-24; PAWC Ex. 12-B Revised (Wastewater SSS General Operations); PAWC Ex. 12-C Revised (BASA).

stormwater for PAWC's CSS operations.[609] No parties raised any objections to the allocation methodology employed in PAWC's wastewater COSSs. PAWC MB at 58-59.

2. I&E's Position

I&E witness Kubas did not recommend changes to the Company's COSS for wastewater operations. Mr. Kubas notes that he used the Company's COSS to develop his various wastewater rates that move the relative rate of return for each class toward zero.[610] I&E MB at 68.

3. OCA's Position

The OCA recommends no direct adjustments to the Company's Wastewater CCOS studies.[611] OCA MB at 67; OCA RB at 44.

4. Victory Brewing's Position

PAWC presented the testimony of Constance E. Heppenstall from Gannett Fleming Valuation and Rate Consultants, LLC,[612] who sponsored the Company's COSS.[613] For Exhibit 12-A, Ms. Heppenstall used the base-extra capacity method to allocate costs of water operations. For wastewater service, Ms. Heppenstall used the functional cost allocation methodology, which has likewise been approved by the Commission for use by the Company and other wastewater utilities. Given the prior accepted use of the studies relied upon by PAWC witness Heppenstall, Victory Brewing has not challenged these methods and accepts the results. Victory Brewing MB at 7.

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609 PAWC St. 12, pp. 25-31; PAWC Ex. 12-E Revised (Wastewater CSS Operations).

610 I&E St. 3, pp. 17-18.

611 OCA St. 4, pp. 20-21.

612 PAWC St. 12.

613 PAWC Exs. 12-A through 12-E.

5. ALJs' Recommendation

As noted by the Company, the COSS for SSS operations were prepared using the functional cost allocation methodology, and that methodology was modified to determine the incremental cost related to handling stormwater for PAWC's CSS operations. As no party raised any objections to the allocation methodology employed in PAWC's wastewater COSSs, we recommend that the Commission adopt PAWC's wastewater COSSs.

C. Cost of Service Studies – Cost of Service Studies for Future General Rate Increases

1. PAWC's Position

The OCA suggests that PAWC should prepare a separate cost of service study in its next base rate filing for systems acquired pursuant to Section 1329.[614] PAWC avers that the PUC should reject this recommendation and continue its approach of moving toward single tariff pricing for all of PAWC systems, including those acquired under Section 1329, and evaluate the necessity of separate COSSs as part of future acquisition proceedings.[615] In PAWC's two most recent base rate cases, the Commission approved rates for Section 1329 acquisitions that made significant progress toward single tariff pricing, and approved a settlement provision that allowed the Company to provide only one separate revenue requirement for CSSs.[616] PAWC MB at 59.

Additionally, PAWC argues that the Commission should not require PAWC to include Rider Demand Industrial Sales ("DIS") and Rider Demand Resale Sales ("DRS") customers as separate customer classes in the Water COSS presented in its next rate case as the

614 OCA St. 4, p. 21.

615 PAWC St. 1-R, pp. 29-31.

616 *Id* at 31.

OCA proposes.[617] Riders DIS and DRS authorize PAWC to negotiate contracts at rates, with specified minimum and maximum levels, designed to retain or attract industrial and resale load for which the customer or applicant for service has a viable competitive alternative that the customer intends to select to the detriment of the Company and its other customers.[618] In approving Riders DIS and DRS, the Commission found that those riders create benefits for all PAWC water customers by preserving or attracting incremental sales that, because of competitive forces, could not otherwise be made.[619] Accordingly, the revenues derived from Rider DIS and DRS customers are appropriately reflected as a deduction to all classes' cost of service. PAWC MB at 59-60.

2. I&E's Position

I&E witness Kubas recommended that in the next base rate case filed by PAWC it provide a separate COSS for BASA in the event that PAWC owns the system at that point.[620] Witness Kubas provided several reason this was necessary: First, I&E believes that because PAWC does not own BASA it is appropriate to excluded BASA system revenue and expenses in this case making the BASA COSS premature. The review in the next base rate case after which PAWC closes on BASA will then include plant in service, allocation factors, and expenses that have not been reviewed or addressed by I&E in this case. Second, the present rate revenue from BASA shown in this case is so far below the cost of providing service to BASA customers, the public and the Commission should be aware of the subsidy being provided to BASA in the next base rate case after PAWC officially closes on BASA. I&E MB at 68.

In addition, while I&E understands it is the Company's intent to eliminate Brentwood from the current filing, I&E witness Kubas recommended that PAWC provide a COSS for Brentwood should PAWC own Brentwood by its next rate case filing. As explained

617 *See* OCA St. 4, pp. 18-19; OCA St. 4-SR, pp. 10-11.

618 PAWC St. 12-R, p. 11.

619 *Id.*

620 I&E St. 3, pp. 73-74.

for BASA, as PAWC does not currently own the system, it must be excluded from rates. Therefore, the current COSS is premature. First, as described by the Company in the *Brentwood Application* at A-2021-3024058, some of the flow carried by the Brentwood plant is from what the Company refers to as "non-customers." Since only plant "used and useful" to serve customers can be recovered from customers, plant in service to serve "non-customers" should be identified and excluded from rate base. Second, Brentwood customers will also pay a separate treatment fee. With no treatment costs in base rates, it could be reasonable to establish a lower rate for Brentwood customers than other SSS customers that have treatment costs recovered in their usage rates. The two primary inputs for cost allocation are the number of customers, and flow. Almost all allocations in a COSS are based on one of these inputs. The Company has no idea how much flow is coming into the system from "non-customers" and how much flow is going out of the system from a combination of "non-customers" and Brentwood customers.[621] I&E avers that the lack of data indicates that the Brentwood COSS filed in this case is totally speculative and not based on any known and measurable data. I&E MB at 68-69; I&E RB at 26.

A properly designed rate structure will not unduly burden one class of ratepayers to the benefit of another. Differences in rates charged to different classes are permissible so long as there is reasonable basis for the discrepancy.[622] Generally "public utility rates should enable the utility to recover its cost of providing service and should allocate this cost among the utility's customers in a just, reasonable and nondiscriminatory manner."[623] Having the specific COSSs for each of these systems, if owned by PAWC, will ensure that the rates charged to these customers are appropriate. Therefore, I&E recommends that when PAWC files its next base rate case, should it then own the BASA and/or Brentwood systems, a separate COSS be provided for each system to ensure the rates charged thereto are just, reasonable, non-discriminatory, and in the public interest. I&E MB at 69; I&E RB at 26-27.

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[621] I&E Ex. 3 Sch. 29.

[622] *See generally, Peoples Nat. Gas Co. v. Pa. Pub. Util. Comm'n*, 409 A.2d 446 (Pa. Cmwlth. 1979) .

[623] *See generally Pa. Pub. Util. Comm'n v. West Penn Power*, 73 Pa.P.U.C. 454, 510, 199 PUR 4th 110 (1990).

3. OCA's Position

The OCA recommends that PAWC provide additional cost of service information in its future base rate filings.[624] First, PAWC should include Rider Demand Industrial Sales (DIS) and Rider Demand Resale Sales (DRS) customers as separate customer classes. In the current proceeding, PAWC did not separately determine the costs associated with serving Rider DIS and DRS customers in its water COSS study; the revenues from Rider DIS and DRS customers were simply reflected as a credit to the overall cost of service.[625] Having separate cost of service information in the next rate case will assist in ensuring that the rates charged to Rider DIS and DRS customers are reasonable. OCA MB at 67.

Additionally, the OCA requests that if the Commission rejects the inclusion of BASA and Brentwood in the current rate case, and PAWC claims them in a future rate case, the Company should be required to provide a separate CCOS study for each.[626] OCA MB at 67.

The OCA further suggests that for future Section 1329 acquisitions, PAWC should prepare separate COSS studies in the first base rate case that includes those systems, unless the utility shows in the underlying Section 1329 proceeding that a separate CCOS study should not be required.[627] Responsive to the concern raised by Ms. Everette,[628] this would maintain flexibility for the Commission while also reducing litigation about the issue in Section 1329 and base rate proceedings and providing some certainty for all parties. As shown in the current rate case, having the revenue requirement associated with those acquisitions separately calculated: (1) provides information to establish rates that reflect the costs for the system; (2)

[624] Also, per I&E's recommendation, PAWC has agreed to continue providing separate CCOS studies for Water, Wastewater SSS, and CSS Wastewater. I&E St. 3, pp. 72-73; PAWC St. 1R, p. 31.

[625] OCA St. 4, p. 19.

[626] OCA St. 4, pp. 21-22; *see also* I&E St. 3, pp. 73-75.

[627] OCA St. 4, p. 21; OCA St. 4SR, pp. 35-36, 37.

[628] PAWC St. 1R, pp. 29-30.

shows the magnitude of the subsidy proposed for those systems,[629] and (3) facilitates the review and recommended removal of those systems from revenue requirement by parties challenging their inclusion in the FPFTY.[630] OCA MB at 67-68.

Going forward, after the initial base rate case in which a Section 1329 system is properly included, PAWC should continue to provide separate CCOS studies for the Section 1329 systems either individually or (for non-CSS Wastewater only) as a group. Where Section 1311(c) is used to require water customers to subsidize revenue shortfall for systems acquired under Section 1329, the amount of that subsidy should be known and transparent, so a determination can be made whether the proposed Act 11 reallocation is in the "public interest."[631] OCA MB at 68.

4. PAWLUG's Position

In Direct Testimony, PAWLUG recommended that PAWC conduct a new demand study to confirm its demand ratios reflect current usage and demand patterns.[632] PAWC claims PAWLUG's recommendation would require substantial expense and coordination of stakeholder input.[633] PAWC further suggests that an interim step of conducting a feasibility study is a necessary prerequisite.[634] PAWLUG does not object to proceeding with a feasibility study as an initial step, but requests that the feasibility study be presented with PAWC's next base rate filing rather than being presented for comment and review between rate filings.[635] Incorporating review of the feasibility study as part of the next rate filing avoids burdening

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[629] *See* PAWC St. 10, p. 47, Table 5.

[630] OCA St. 4SR, p. 36.

[631] 66 Pa.C.S. § 1311(c).

[632] PAWLUG St. 1, p. 22.

[633] PAWC St. 12-R, p. 9.

[634] *Id.*

[635] PAWLUG St. 1S, p. 5.

intervenors with multiple regulatory proceedings. This proposal would necessarily extend the use of PAWC's existing demand study for one additional rate case, but also achieve incremental progress towards a comprehensively updated demand study.[636] PAWLUG MB at 20-21.

OCA additionally proposes to modify PAWC's prospective COSS to include Rider DIS and Rider DRS customers. As stated in OCA's testimony, PAWC has historically excluded Rider DIS and DRS customers from the COSS and allocated revenue from these customers as a credit to the overall cost of service, thereby reducing the overall revenue requirement for all customers.[637] OCA claims this proposal will ensure that the rates charged to Rider DIS and DRS customers are reasonable. PAWLUG MB at 21.

PAWLUG asserts that OCA's proposal should be denied. Both Rider DIS and DRS prescribe minimum rate requirements for these customers in the tariffs.[638] There is no record of discovery disputes where PAWC has declined to respond to any inquiry concerning compliance with the minimum rate requirements. OCA's proposal presents a solution to a perceived problem that has not been remotely substantiated through the available means. Accordingly, the Commission should deny OCA's request. PAWLUG MB at 21.

5. ALJs' Recommendation

As noted, the OCA recommends that PAWC should prepare a separate cost of service study in its next base rate filing for systems acquired pursuant to Section 1329, unless the utility shows in the underlying Section 1329 proceeding that a separate cost of service study should not be required. As noted by the OCA, having the revenue requirement associated with these acquisitions calculated separately provides information to establish rates that reflect the costs for the system, shows the magnitude of the subsidy proposed for the systems, and facilitates the review of these systems who might challenge their inclusion, ultimately reducing

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[636] PAWLUG St. 1S, p. 5.

[637] OCA St. 4, p. 19.

[638] PAWC St. 12-R, p. 11.

litigation on the issue. We find this proposal to be reasonable and recommend its approval by the Commission.[639]

OCA further recommends that, after the initial base rate case, the Company continue to provide separate cost of service studies for the Section 1329 systems. As noted by the OCA, this will allow greater transparency for the system to determine whether an Act 11 reallocation to subsidize a revenue shortfall is actually in the public interest. We find this proposal to also be reasonable and recommend its approval by the Commission.

OCA further suggests that the Commission should require PAWC to include Rider Demand Industrial Sales (DIS) and Rider Demand Resale Sales (DRS) customers as separate customer classes in the Water cost of service study presented in its next rate case.[640] As noted by the OCA, PAWC did not separately determine the costs associated with serving these customers, only reflecting the associated revenues as a credit to the overall cost of service. We do agree with the OCA that having cost of service information for these two riders in the next rate case will ensure that the rates charged to these riders are reasonable and in the public interest. As we find this proposal to be reasonable, we recommend that the Commission adopt the OCA's proposal to require PAWC to include Rider DIS and Rider DRS as separate customer classes in the Water cost of service study in its next base rate case.

Lastly, PAWLUG requests that PAWC conduct a new demand study to confirm its demand ratios reflect current usage and demand patterns. PAWLUG does not object to proceeding with a feasibility study as an initial step, but requests that the feasibility study be presented with PAWC's next base rate filing rather than being presented for comment and review between rate filings. While we find PAWLUG's proposal to be generally reasonable, we disagree about presenting the feasibility study with PAWCs next base rate filing rather than in-between filings. Filings under Section 1308(d) of the Public Utility Code trigger a strict statutory deadline which limits the amount of time available to the parties and the Commission to

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639 We note that this recommendation also encompasses I&E's request that PAWC be required to provide separate cost of service studies for BASA and Brentwood, should PAWC own these systems by that time.

640 OCA MB at 67

review the associated filings. However, filing the feasibility study between rate cases will allow more time for review without the many distractions that can be associated with a base rate case. Accordingly, while we will recommend approval of the requested feasibility study, we also recommend that the Commission direct PAWC to file the feasibility study 90 days before its next base rate case so parties will have adequate time for review.

D. Cost of Service Studies – Allocation of Arrearage Management Program (AMP) Costs and Administrative Costs for H20 Programs

1. PAWC's Position

OSBA witness Higgins proposes to directly assign AMP-related bad debt and administrative expenses for PAWC's H2O Help to Others customer assistance programs ("H2O Programs"), totaling $2.8 million to the residential class.[641] The Company accepted this recommendation in its revised COSSs presented in rebuttal testimony, because PAWC's AMP credits are incremental to other uncollectible expense and PAWC's customer assistance programs are designed to benefit residential customers.[642] PAWC MB at 60.

2. OCA's Position

In rebuttal testimony, PAWC revised its Wastewater CCOS study to directly allocate its AMP costs, both credits and administrative costs, and its H2O Grant and Discount administrative costs to residential customers only.[643] The OCA asserts that PAWC should allocate these costs consistent with the allocation of uncollectible cost generally, as PAWC did in its direct filing.[644] OCA witness Colton provided data showing that the arrears that would be made subject to arrearage forgiveness are substantial and sufficiently high that PAWC will have already contributed to its reserve for write-offs before these low-income customers enter the

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[641] OSBA Sts. 1, pp. 30-32, & 1S, pp. 16-18.

[642] PAWC St. 12-R, pp. 10-11; *see also* PAWC St. 5, p. 26.

[643] PAWC St. 12R, pp. 10-11; OSBA St. 1SR, pp. 15-16.

[644] OCA St. 5R, pp. 1-6.

arrearage forgiveness program.[645] To the extent that the program succeeds in prompting future in-full payments toward current bills, plus a copayment toward arrears, PAWC will reduce the dollars that will ultimately be found to be uncollectible. There would be no new, and no incremental, arrearage forgiveness program costs to be directly assigned to the Residential class.[646] OCA MB at 68-69.

Whatever determination is made regarding recovery of AMP costs going forward, the amortization of the regulatory liability for AMP costs anticipated in the last rate case, but never incurred, should be directly credited to the Residential class.[647] While the AMP costs anticipated in the last PAWC base rate case were not directly assigned to the Residential class, in the settlement of PAWC's last base rate proceeding those costs were collected from residential customers. Having been collected from residential customers, these costs, which were included in rates but never incurred, should be refunded to residential customers.[648] OCA MB at 69-70.

The OCA also opposes PAWC's proposal to directly allocate its customer assistance program administrative costs to residential customers only.[649] The administration of the H2O Grant and Discount programs is expected to result in a corresponding decrease in PAWC's administrative costs associated in addressing the nonpayment of bills.[650] PAWC directly assigns the administrative expenses associated with these programs, without also identifying and directly assigning the administrative savings, i.e. it imposes the costs without also crediting the benefits. The fact that there are both costs and cost reductions associated with these programs demonstrates how inextricably interrelated the programs are with other aspects of

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645 OCA St. 5R, pp. 3-4.

646 OCA St. 5R, p. 4.

647 OCA St. 5R, p. 5.

648 *Id*.

649 PAWC St. 12R, pp. 10-11.

650 OCA St. 5R, pp. 5-6.

PAWC operations.[651] The OCA avers that the only way to appropriately capture, and to allocate, both the costs and the cost reductions, is to allocate the costs as PAWC initially proposed to do, based on an O&M composite factor. OCA MB at 70.

3. OSBA's Position

PAWC recovers the direct costs of the Company's residential low-income discounts from the residential class in the Company's rate design. However, in its original filing, PAWC allocated $3,180,090 caused by the Company's AMP and administrative costs associated with its low-income residential programs among both residential and non-residential customer classes in its cost of service studies.[652] OSBA MB at 18.

For water service, PAWC allocates $2,031,317 for its proposed AMP and $416,569 in Dollar Energy administrative costs among its water classes based on the historical incurrence of bad debt. For wastewater service, PAWC allocates a total of $345,883 in AMP expense and $70,931 in Dollar Energy administrative costs among classes within its various wastewater cost of service studies.[653] PAWC also allocates $315,390 in administrative costs for its H2O Grant and Discount program among water customer classes using an operations & maintenance ("O&M") factor.[654] OSBA MB at 18.

Originally, PAWC initially claimed that costs associated with its AMP are recovered in base rates from residential customers. Later, the Company acknowledged that these costs are not directly assigned to the residential class in its cost of service studies.[655] The OSBA recommended that all the residential low-income program costs be directly assigned to the residential customer class, as these programs are not available to non-residential customers and

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651 *Id* at 6.

652 OSBA St.1, p. 31.

653 OSBA St.1, p. 31.

654 OSBA St.1, p. 31.

655 OSBA St.1, p. 31-32

only benefit the residential customer class. PAWC adopted the OSBA's recommendation, and directly assigned AMP costs and residential low-income program administrative costs to the residential class.[656] OSBA MB at 18.

The OSBA notes CAUSE-PA's position that it supports PAWC's practice of equitably allocating certain universal service program costs across all ratepayers. The OSBA asserts that there are two problems with CAUSE-PA's argument. First, as CAUSE-PA acknowledges, it recognizes that the CAP Policy Statement is not currently applicable to jurisdictional water/wastewater utilities in the Commonwealth. Second, as set forth in 52 Pa. Code Section 69.266, a proceeding must consider the revenue and expense impact of any proposed allocation of low-income programs. There is no record evidence that PAWC's residential class will suffer any undue economic impact by requiring it to be solely responsible for these programs and administrative expenses. Accordingly, the OSBA respectfully requests that AMP costs and residential low-income program administrative costs be solely assigned to the residential class. OSBA RB at 13.

4. CAUSE-PA's Position

Currently, PAWC recovers costs for bill discounts offered under its BDP solely from its residential customers.[657] However, PAWC allocates a portion of its universal service costs, amounting to approximately $3,180,090, among both residential and nonresidential customer classes.[658] The costs allocated across rate classes included costs for PAWC's AMP, as well as a portion of administrative costs to operate its BDP and Hardship Fund Program. CAUSE-PA MB at 19.

CAUSE-PA supports PAWC's practice of equitably allocating certain universal service program costs across all ratepayers. The Commission has provided directives related to

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656 OSBA St.1-S, p. 19.

657 OSBA St. 1, p. 31: 1-5.

658 OSBA St. 1, p. 31: 1-18.

the recovery of universal service costs in the context of electric and gas jurisdictional utilities.[659] Specifically, the Commission has indicated that it is appropriate to consider cost recovery related to customer assistance programs from all ratepayers, explaining: "poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just 'residential class' problems."[660] The Commission further explained that providing universal services to assist low-income families afford and maintain services in their homes provides "a benefit to the economic climate of a community."[661] While directing utilities and stakeholders to address universal service cost recovery in utility-specific rate cases, the Commission also indicated that it would "no longer routinely exempt non-residential classes from universal service obligations."[662] CAUSE-PA MB at 20.

CAUSE-PA recognizes that the CAP Policy Statement is not currently applicable to jurisdictional water/wastewater utilities in the Commonwealth. However, directives and discussions contained in the CAP Policy Statement provide important guidance and precedents related to the Commission's view of low-income assistance programs, and cost recovery for these programs. Accordingly, CAUSE-PA requests that the Commission allow PAWC to continue its current practice of recovering costs associated with the H2O program and Dollar Energy Fund ("DEF"), amongst both residential and nonresidential customers. CAUSE-PA MB at 20-22.

5. PAWLUG's Position

PAWLUG concurs with OSBA that, to the extent the Commission approves recovery of incremental costs of the AMP, such costs are properly allocated to Residential customers. Similarly, the administrative costs of other low-income programs are properly allocated to Residential customers. Any positive impact on bad debt expense resulting from

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659 CAUSE-PA St. 1-R.

660 CAUSE-PA St. 1-R, p. 4.

661 *Id;* 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, *Final Policy Statement and Order,* Docket No. M-2019-3012599, at 7, 94-96, 107 (Order Entered Sept. 19, 2019).

662 CAUSE-PA St. 1-R, p. 4; 66 Pa. C.S. § 69.266(b).

these programs would benefit the Residential class by improving collectibles for Residential customers and reducing the class's allocation of bad debt expense. Moreover, CAUSE-PA's reliance on the Commission's policies related to cost recovery for mandatory electric and gas Customer Assistance Programs should be disregarded as irrelevant to PAWC's voluntary low-income programs.[663] Accordingly, PAWLUG maintains that the Commission should approve PAWC's COSS revisions allocating any incremental AMP costs and administrative costs for other low-income programs to Residential customers. PAWLUG Main Brief at 22.

6. ALJs' Recommendation

OSBA witness Higgins proposes to directly assign AMP-related bad debt and administrative expenses for PAWC's H2O Help to Others customer assistance programs ("H2O Programs"), totaling $2.8 million to the residential class. PAWLUG concurs with OSBA that, to the extent the Commission approves recovery of incremental costs of the AMP, such costs are properly allocated to Residential customers. PAWC accepted this proposal while the OCA opposes these proposals. We agree with OSBA and PAWLUG that these costs are appropriately assigned to the residential class. These programs are only available to residential customers, and as such, the costs of these programs are appropriately assigned to the residential class. Moreover, and as noted by the OSBA, there is no evidence in the record to demonstrate that the residential class will suffer an undue economic impact by requiring it to be solely responsible for these programs and administrative costs. We also agree with PAWLUG that any positive impact on bad debt expense resulting from these programs will benefit the residential class by improving collectibles for residential customers and reducing the class's allocation of bad debt expense. Accordingly, we recommend that the Commission adopt OSBA's proposal to assign these costs to the residential class.

Separately, the OCA requested that, regardless of what determination is made regarding recovery of AMP costs going forward, the amortization of the regulatory liability for AMP costs in the last base rate case, but never incurred, should be directly credited to the Residential class. The OCA observed that PAWC directly assigns the administrative expenses

[663] *See* PAWLUG St. 1S, p. 15.

associated with these programs without also identifying and directly assigning the administrative savings. It stands to reason that if the costs are assigned to the residential class, any savings should similarly be assigned to the residential class. Accordingly, we find the OCA's proposal to be reasonable and recommend that it be adopted by the Commission.

E. Revenue Allocation and Act 11

1. PAWC's Position

The Company's proposed revenue allocation to customer class presented by Mr. Rea and set forth in PAWC Exhibits 10-A Revised, 10-B, 10-C, 10-D and 10-E Revised is generally based on the COSSs presented by Ms. Heppenstall. Several parties took issue with PAWC's proposal to use Section 1311(c) to mitigate the impact of rate increases on wastewater customers by recovering a portion of the Company's wastewater revenue requirement from its total water and wastewater customer base. [664] Allocating $69.5 million of the wastewater revenue requirement (excluding Brentwood),[665] as proposed by PAWC, is in the public interest.[666] While the Section 1311(c) allocation plays an important role in mitigating the increases to PAWC's 76,000 wastewater customers, it has a modest effect on water customers' bills – representing an increase of approximately $6 per month to an average residential customer.[667] PAWC MB at 60-61.

In addition, PAWC's proposed rates would make reasonable movement toward the system average rate of return by the various customer classes as measured by the COSSs.[668] The Company's proposal will ensure approximate parity to residential bills for water service and

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[664] *See* I&E St. 3, p. 12; OCA St. 4, pp. 22-28; OSBA St. 1, pp. 33-34; Cleveland-Cliffs St. 1, pp. 7-8; PAWLUG St. 1, pp. 23-27.

[665] *See* PAWC St. 1, pp. 19-20.

[666] *See PAWC 2020* at 82.

[667] PAWC St. 1, pp. 20-21; PAWC St. 10; pp. 51-52.

[668] PAWC St. 1, pp. 19-20.

wastewater service at average usage levels and promote affordability of wastewater.[669] PAWC MB at 61.

While several parties point out that water customers may already take wastewater service from another provider as a reason to reject PAWC's proposed Section 1311(c) reallocation, Act 11 already contemplates that possibility.[670] Furthermore, PAWC cannot consider the fees paid to other providers in its affordability analyses because the Company does not know the rates its customers may be paying to other wastewater service providers. It is simply not possible to do an affordability study as I&E witness Kubas suggests.[671] PAWC MB at 61.

When determining the level of Act 11 allocation that is in the public interest, the Commission must consider how the proposed allocation will impact all customers.[672] The Company's proposal will result in substantial benefits to wastewater customers and have a minimal impact on water customers. The Company's proposed allocation will: (i) make meaningful progress in moving the rates of its separate wastewater rate zones closer to a single consolidated wastewater rate design for all of the Company's wastewater operations;[673] (ii) maximize the number of customers for whom services will fall below the desired 2% bill-to-income ratio;[674] and (iii) increase the monthly water bill of a residential water customer by only approximately $6 per month at proposed rates, while decreasing the monthly wastewater bill of a residential wastewater customer by approximately $10 to $90 per month at proposed rates, depending on the rate and location of the customer.[675] PAWC avers that denial of the

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[669] PAWC St. 10, pp. 47-50; PAWC St. 10-R, p. 3; *see also* OCA St. 4, p. 22 (noting that absent any Act 11 allocation, PAWC's wastewater rates would need to increase, on average, by 40.4%).

[670] PAWC St. 10-R, pp. 35-36.

[671] Tr. 2011-12.

[672] *See PAWC 2020* at 82.

[673] PAWC St. 1, pp. 19-20.

[674] PAWC St. 10, p. 50.

[675] PAWC St. 1, pp. 20-21; PAWC St. 10; pp. 51-52.

Company's proposal could result in significant rate increases in several wastewater zones, eroding wastewater affordability posing potential for rate shock to the Company's wastewater customers.[676] PAWC RB at 50-51.

The Company proposes allocating the Act 11 wastewater revenue requirement directly to water customer classes based on wastewater class contributions to the revenue requirement deficiency and, where such contributions are not class specific, allocating to water customers based on relative levels of water cost of service.[677] The Company's methodology is supported by OSBA. PAWLUG proposes modifying the Company's allocation to SSS customers to assign costs based on wastewater cost of service. The OCA and Cleveland-Cliffs oppose the Company's proposal, arguing that the allocation to water classes should be based on water cost of service. The Company believes that its proposal is reasonable since, as Mr. Rea explains, there is not a complete match between wastewater and water customer classes.[678] Accordingly, PAWC maintains that the Commission should reject the allocation proposals of the OCA, Cleveland-Cliffs, and PAWLUG. PAWC RB at 51.

2. I&E's Position

Concerning wastewater rates, the Company notes that cost causation is an important goal in establishing rates and that cost causation is the foundation of its wastewater rates.[679] However, rather than proposing wastewater rates that recover the cost of service, the Company proposed various wastewater rates decrease, proposed certain wastewater rates not increase, and in some instance proposed wastewater increases. Based on I&E witness Kubas' review of the proposed rates, it appears that rather than cost causation, the primary goal of the

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676 PAWC St. 10, pp. 48-50.

677 *See* PAWC Exs. 10-B through 10-E.

678 PAWC St. 10-R, pp. 34, 36.

679 PAWC St. 10, pp. 28-30.

Company's wastewater rates was to limit the average bill of a residential wastewater customer to make them comparable to the average water customer's bill.[680] I&E MB at 70.

Section 1311(c) of the Public Utility Code,[681] more commonly referred to as Act 11, permits utilities that provide both water and wastewater service to combine the revenue requirements by allocating a portion of the wastewater revenue requirement to the water customer base if doing so is in the "public interest."[682] Section 1311(c), however, does not specify how the Commission should determine rates, nor does it dictate the percent or amount of revenue that should be allocated or shifted, leaving the Commission wide latitude in applying Act 11.[683] What is required, however, is that it must be in the public interest for the utility to allocate a portion of its wastewater revenue requirement to the combined water and wastewater customer base.[684] In this case, I&E witness Kubas applied his knowledge and experience in rate making design and revenue allocation to craft a rate design that both respects cost of service principles and is in the public interest. The Company is proposing that PAWC's water customers subsidize wastewater customers by $71,087,394.[685] I&E MB at 70-71.

In this case simply removing BASA and Brentwood[686] systems from this proceeding reduces the Act 11 subsidy to $47,969,463.[687] Based upon I&E's proposed wastewater rates, the total subsidy needed to operate the SSS Operations wastewater systems is $357,517.[688] This $357,517 is the amount necessary based on PAWC's full requested increase

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680 I&E St. 3, pp. 9-10.

681 66 Pa. C.S. § 1311(c).

682 *Id.*

683 *Ratemaking Guide*, p. 141.

684 66 Pa. C.S. § 1311(c).

685 PAWC Initial Filing Volume 3, Ex. 3-A, p. 1.

686 PAWC agreed in Rejoinder testimony to remove the Brentwood system from this proceeding. Tr. 1970.

687 I&E St. 3, p. 12.

688 I&E St. 3, p. 12, and I&E Ex. 3, Sch. 1, columns C and D, line. 33.

being approved. If the I&E proposed increase is adopted, there is no need for a subsidy at all.[689] I&E MB at 71.

The Company criticizes I&E's position stating that I&E's Act 11 allocation, or lack thereof, will result in rates that are too high relative to the average water bill and may result in rate shock for wastewater customers.[690] This argument is without merit. As witness Kubas explains, the Company has already proposed that Zone 1 Residential water customers bill should increase by 24.9%, while under his proposal, the bill of an average rate Zone 1 Residential SSS wastewater customer would increase by 25.3%.[691] Therefore, the I&E increases are in-line with what the Company is already proposing. I&E MB at 71-72.

3. OCA's Position

The OCA's recommended revenue distribution for water service is based on OCA witness Mierzwa's CCOS adjusted for gradualism. OCA witness Mierzwa set the proposed revenues, inclusive of Act 11 shift, for each class equal to the cost of service indicated by his water CCOS study. Additionally, the OCA had several recommendations. First, the OCA recommends limiting the increase to the Industrial, Public (Municipal), Other Water Utilities Group B, and Public Fire Protection classes to 34.7% which is the increase indicated as appropriate for the Industrial class by the OCA's CCOS study. The OCA avers that an increase of 34.7% results in an increase of 1.9 times the system average increase of 17.8% for each of these classes which is consistent with the concept of gradualism. Next, the OCA recommends maintaining the increase proposed by PAWC for the Other Water Utilities, Group A class, as a significant decrease was indicated by both PAWC's revised and OCA's CCOS study. Lastly, the OCA recommends assigning the revenue deficiency (resulting from limiting the increase to

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689 I&E St. 1, p. 12.

690 PAWC St. 1, pp. 23-24, and St. 10-R, pp. 58-59.

691 I&E St. 4-SR, p. 24.

34.7%) to the Residential and Commercial customer classes based on the indicated cost of service for each class.[692] OCA MB at 71.

The OCA notes that Section 1311(c)[693] allows, but does not require, the Commission to allocate a portion of the Wastewater revenue requirement to a combined Water and Wastewater customer base if it is in the public interest. However, the OCA asserts that PAWC's proposal to shift $71 million of Wastewater revenue requirement to its water customers fails to meet the fundamental principles of fairness and efficiency in setting rates for Water and Wastewater customers.[694] Shifting 94% of the claimed Wastewater revenue deficiency is in no way reasonable. This would recover 27% of the total Wastewater revenue requirement through the rates for Water service. Allocating such a significant percentage of the total Wastewater revenue requirement to Water moves all customers further from paying rates that reflect their indicated cost of service and would result in Wastewater rates that have no reasonable relationship to the cost of serving those customers.[695] OCA MB at 72-73.

However, the OCA submits that it is reasonable to provide some Act 11 relief to customers, namely SSS and CSS customers, from rate increases while not overburdening Water customers.[696] Accordingly, at the OCA's recommended revenue requirement, the OCA submits that it would be reasonable to shift up to 75% of the Wastewater SSS revenue requirement increase and up to 50% of the CSS Wastewater revenue requirement increase to Water customers.[697] This results in an approximate increase in revenue requirement of 5.3% ($5,078,655) for Wastewater SSS and 4.7% ($3,667,604) for CSS Wastewater. This is comparable to a post-assignment increase of approximately 4.5% ($36,690,821) for Water

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692 OCA St. 4, pp. 33-34; OCA St. 4SR, pp. 15-16.

693 66 Pa. C.S. § 1311(c).

694 OCA St. 1, p. 39; 66 Pa.C.S. §§ 1301, 1304.

695 OCA St. 4, pp. 24, 26-27.

696 OCA St. 4, p. 28; OCA St. 4R, p. 7.

697 OCA St. 4, p. 28.

customers.[698] This is a reasonable position, which by allocating a portion of the Wastewater revenue requirement to Water customers, moves the Wastewater SSS and CSS rates closer to their indicated cost of service while not disproportionately increasing rates for Water customers.[699] OCA MB at 74.

Regarding how the Act 11 allocation is assigned to water classes, the OCA recommends using the cost of service indicated by the OCA's water CCOS study:[700]

698 OCA St. 2, Ex. LA-1, Sch. A; OCA St. 4, pp. 9, 28; OCA St. 4R, p. 7.

699 *Aqua 2022* at *112; 66 Pa. C.S §§ 1301, 1304.

700 *See* OCA Table 4SR; OCA St. 4SR, pp. 14-16.

Table 4-SR. Summary of OCA Cost of Service Study and Present and Proposed Rates for Water Service							
Classification	**Direct Cost of Service**	**Wastewater to Water Allocation**	**Total Cost of Service**	**Present Rates**	**Proposed Rates**	**Increase**	**Percent**
Residential	$606,110,184	$12,306,954	$618,417,138	$528,290,043	$619,195,214	$90,905,171	17.2%
Commercial	230,359,742	4,677,412	235,037,154	202,779,636	235,332,871	32,553,235	16.1%
Industrial	49,618,335	1,007,491	50,625,826	37,580,738	50,625,826	13,045,088	34.7%
Public (Municipal)	26,459,930	543,497	26,997,194	22,559,539	27,031,161	4,471,622	19.8%
Other Water Utilities - Group A	12,399	252	12,651	51,822	53,666	1,844	3.6%
Other Water Utilities - Group B	450,547	9,148	459,696	202,436	272,706	70,270	34.7%
Private Fire Protection	7,115,758	144,484	7,260,242	5,301,032	7,141,135	1,840,103	34.7%
Public Fire Protection	13,666,426	0	13,666,426	9,519,368	12,823,747	3,304,379	34.7%
Other	18,473,554	216,761	18,690,315	17,832,568	18,690,315	857,747	4.8%
Total	**$952,266,876**	**$18,899,766**	**$971,166,642**	**$824,117,182**	**$971,166,642**	**$147,049,460**	**17.8%**

PAWC and OSBA propose instead that cost responsibility to water customers should correspond to the wastewater classes that create the revenue shortfall.[701] The OCA believes this proposal should be rejected because no reasonable argument can be made there is a cost causation basis to support class-for-class reallocation of the Act 11 shift, as most of PAWC's water customers do not obtain wastewater service from PAWC. The Company currently has seven times as many

701 PAWC St. 10R, p. 34; OSBA St. 10-11.

water customers as wastewater customers. Moreover, there are several PAWC wastewater systems whose customers do not purchase water service from PAWC.[702] OCA MB at 74-75

Regarding wastewater revenue requirement, the OCA recommends a Wastewater SSS revenue requirement increase of $20.3 million, and a CSS Wastewater revenue requirement increase of $7.3 million for a combined total increase of $27.6 million at PAWC's claimed revenue requirement.[703] The OCA is also recommending that 75% of the Wastewater SSS revenue requirement increase and 50% of the CSS Wastewater revenue requirement increase be assigned to Water customers.[704] The result is an approximate increase in revenue requirement as shown below:[705]

OCA Recommended Revenue Requirement		
Water Operations	Wastewater SSS Operations	Wastewater CSS Operations
4.5%	5.3%	4.7%
$36,690,821	$5,078,655	$3,667,604

As shown, the OCA recommends an increase of 4.7% for Scranton, which is consistent with the OCA's recommended increase for all CSS Wastewater and less than the OCA's recommended increase for Wastewater SSS.[706] The OCA avers that this is more reasonable than the Company's proposed zero increase for the Scranton system, given that PAWC is claiming that the CSS Wastewater, of which Scranton is the largest service area, has an annual revenue deficiency of $15.8 million.[707] OCA MB at 76; OCA RB at 49.

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702 OCA St. 4R, p. 10.

703 OCA St. 4, pp. 37-38.

704 *Id.*; OCA St. 4R, p. 7.

705 OCA St. 2, Ex. LA-1, Sch. A; OCA St. 4, pp. 9, 28; OCA St. 4R, p. 7.

706 OCA St. 4, pp. 38-39.

707 PAWC Ex. 3-A Revised Summary.

Regarding the City of Scranton's opposition to a 4.7% increase and its concern that increases to water or wastewater rates would be a hardship for its customers, the OCA notes that Customers in Scranton make up a significant portion of the dual Water/Wastewater customers discussed above who are facing potential increases to both types of service. As such, the recommendations by OCA and other parties to limit the overall revenue increase are particularly critical for Scranton customers. The OCA shares Scranton's concerns about affordability of wastewater and water service, but if there is to be an increase awarded to PAWC in this case, the OCA avers that its proposed increase and allocation strikes the most appropriate balance of all the parties in the proceeding in ensuring fairness and equitable distribution of the increase. OCA RB at 51-52.

4. OSBA's Position

The OSBA's recommended revenue allocation for water service is based upon OSBA witness Higgins' revised water COSS. Ultimately, Mr. Higgins recommended a reduction of PAWC's proposed revenue increases to both the Commercial and Residential classes.[708]

Regarding the Act 11 allocation, the OSBA recommends that if, as expected, the Commission approves the recovery of a portion of the wastewater revenue requirement from PAWC's water customers in this case, the approach provided by PAWC in response to OSBA 03-001 as a reasonable means of allocating the Act 11 subsidy among water classes, as updated for the Act 11 subsidy level and cost of service studies ultimately approved in this case, should be utilized.[709] OSBA avers that this approach conforms to the requirements of Section 1311[710] of the Public Utility Code, and is a just and reasonable result for this issue. OSBA MB at 20-21.

[708] OSBA St. 1-S, p. 19.

[709] OSBA St. 1, pp. 33-34.

[710] 66 Pa. C.S. § 1311

Noting that OCA's and Cleveland-Cliffs' recommendation that the Act 11 subsidy be allocated among water classes based on the results of the water cost of service study, OSBA avers that the legal problem with the OCA and Cleveland-Cliffs Steel methodology is that it transforms wastewater costs into water costs, and then those "transformed" wastewater costs are allocated based upon PAWC's Water COSS. That "transformation," it's argued, violates the plain language of the statute. Specifically, Section 1311(c) explicitly uses the word "allocate," not "transform" or "change." The OSBA avers that while it is true that the Commission has latitude in interpreting its statutes, the Commission has no authority to change the words of those statutes. OSBA MB at 20-21.

OSBA further argues that such a transformation of wastewater costs into water costs so that a Water COSS can be applied violates the basic tenets of the *Lloyd* decision.[711] The Commonwealth Court held, in 2006, that the cost of service was the polestar of setting rates. That is the law of the Commonwealth of Pennsylvania and must be followed by this Commission. If cost of service is the polestar, then diluting a Water COSS with wastewater costs is forbidden. OSBA MB at 21.

5. CAUSE-PA's Position

While CAUSE-PA did not take a specific position related to the Act 11 issues in this proceeding, CAUSE-PA's expert witness noted that there are inherent equity issues related to Act 11 proposals and modifications.[712] For example, at the same time that PAWC proposes to shift wastewater costs onto water customers, it is also proposing to shift wastewater costs from higher income customers to lower income customers through its winter averaging methodology. CAUSE-PA MB at 22-23.

CAUSE-PA urges the Commission to view the Act 11 equity issues raised by other parties in this proceeding in the context of the overall equity considerations raised by CAUSE-PA, and through the testimony of CAUSE-PA's expert witness. CAUSE-PA submits

[711] *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

[712] CAUSE-PA St. 1, pp. 11-12.

that PAWC has failed to meet its burden to prove that its rate proposals will result in just and equitable rates. As such, its proposals, including its proposal to shift costs from wastewater to water customers, must fail. CAUSE-PA MB at 23.

6. PAWLUG's Position

PAWC's proposed revenue allocation adopts its COSS and incorporates a shift of $71.1 million of the wastewater revenue requirement to the water customers pursuant to Act 11. PAWLUG supports adoption of PAWC's COSS subject only to the Residential customer class maximum hour demand ratio from 5.0 to 6.0. With regard to PAWC's proposed revenue allocation, PAWLUG recommends that the Commission slightly modify PAWC's allocation of the Act 11 subsidy to reflect cost causation for directly assignable costs:

PAWLUG Brief Table 1[713]
Revised Re-allocation of Wastewater Subsidy
($Millions)

Customer Class	PAWC Proposed Re-allocation		PAWLUG Proposed Re-allocation	
	$	**%**	**$**	**%**
Residential	$45.9	64.5%	$46.0	64.8%
Commercial	$17.6	24.7%	$19.6	27.6%
Large Industrial	$4.5	6.4%	$4.3	6.0%
Municipal	$2.7	3.8%	$1.1	1.5%
Fire	$0.4	0.6%	$0.07	0.1%
Total	$71.1	100.0%	$71.1	100.0%

PAWLUG avers that its revised allocation acknowledges some incongruity between the water and wastewater customer classes, but appropriately aligns a greater portion of the Act 11 allocation on the basis of wastewater cost of service.[714] PAWLUG MB at 23-25.

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713 PAWLUG St. 1S, p. 7 (originally presented as PAWLUG Surrebuttal Testimony Table 1).

714 PAWLUG St. 1, p. 26.

With regard to the amount of the proposed Act 11 subsidy, PAWLUG is deeply concerned that requiring water customers to absorb $71.1 million of PAWC's wastewater revenue requirement under the circumstances of back-to-back rate cases unreasonably burdens PAWC's water customers. PAWLUG requests that the Commission act to moderate the impact of the proposed Act 11 allocation, including applying any approved reduction to the wastewater revenue requirement to first reduce the Act 11 allocation before scaling back any wastewater customer class revenue requirements.[715] PAWLUG MB at 23.

7. Cleveland-Cliffs' Position

Cleveland-Cliffs does not take a position regarding the reasonableness of assigning a subsidy of wastewater service customers to water service customers. However, if the Commission decides to assign such a subsidy, it should be assigned to water service customers in a manner consistent with current PAWC allocation of this subsidy. In current rates, the wastewater subsidy is recovered from water customers according to the customer class share of water costs. Since the total wastewater subsidy cannot be tracked to specific water service classes, the total wastewater subsidy reallocation is currently based on each water service class's proportionate share of total water service cost responsibility under current rates. This Commission-approved method is straightforward and equitable to each customer grouping. Cleveland-Cliffs MB at 3.

Cleveland-Cliffs notes, however, that PAWC is proposing a drastic change to the current methodology that would inappropriately link wastewater class subsidies to the water service classes. Cleveland-Cliffs avers that this new allocation methodology in which wastewater subsidies from wastewater service classes are directly assigned to the corresponding water service classes is not reasonable. The cost of water services and wastewater services are separate and distinct and should not be linked. A Residential water service customer is not directly responsible for a Residential wastewater service customer's subsidy. The same is true for Commercial and Industrial water service customers having to subsidize Commercial and

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715 *Id* at 26.

Industrial wastewater customers, respectively. PAWC's proposed direct assignment of wastewater subsidies should therefore be rejected.[716] Cleveland-Cliffs MB at 4.

Cleveland-Cliffs maintains that it is appropriate to allocate any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC's COSS. It is much simpler and more equitable for the Commission to reject PAWC's direct assignment of the wastewater subsidy and require the Company to maintain its current practice of allocating any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC's COSS. Cleveland-Cliffs MB at 5.

Cleveland-Cliffs disagrees with OSBA's statutory argument, averring that OSBA claims, without any factual or legal basis, that OCA and Cleveland-Cliffs' allocation proposal is somehow not an "allocation" of costs within the meaning of Section 1311(c),[717] but a "transformation" of costs, and therefore, Cleveland-Cliffs' proposal violates Section 1311(c) because it allows the Commission to "allocate" costs and not "transform" costs. Cleveland-Cliffs avers that this is an entirely invented "legal problem." An allocation proposal does not cease to be an allocation proposal simply because an opposing party declares that it is a "transformation." And as previously noted, the Commission's current allocation of Act 11 subsidies is consistent with Cleveland-Cliff's proposal, not OSBA's. Accordingly, if Cleveland-Cliffs' proposal violates Section 1311(c), then the current Commission-approved allocation of Act 11 costs must also violate Section 1311(c). This is clearly not the case. Cleveland-Cliffs RB at 3.

8. Victory Brewing's Position

The purpose of revenue allocation is to establish the responsibility of each customer class for a portion of the revenue requirements that are approved by the Commission. A key factor in determining the appropriate portion of the revenue requirements that is allocated

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716 Baudino Rebuttal, pp. 3-4.

717 66 Pa. C.S. § 1311.

to each class is the COSS.[718] In proposing its revenue allocation, the Company's primary goal was to allocate the increase to each class in a way that moves the various rate classes closer to their full cost of service while avoiding applying an unreasonably large portion of the increases to any one of the customer classes. In addition, PAWC sought to recognize the principle of gradualism in proposing increases for some classes despite the costs incurred to serve those classes.[719] Given that the Company's revenue allocation goals were consistently applied in accordance with prior rate cases, Victory Brewing does not contest the results of costs being allocated to certain customer classes. Victory Brewing MB at 7-8.

9. ALJs' Recommendation

The allocation of revenue among a utility's various rate classes (and in this case, rate zones and services), while informed by science and engineering, also involves consideration of ratemaking policy and principles of gradualism. The application of science and policy to the allocation of a revenue increase is within the Commission's discretion: "[T]here is no set formula for determining proper ratios among the rates of different customer classes. What is reasonable under the circumstances, the proper difference among rate classes, is an administrative question for the Commission to decide."[720]

The Commission recently explained the interplay among ratemaking methodologies and the consideration of other factors to set just and reasonable rates:

> These norms, or traditional ratemaking methodologies, are used to determine a utility's cost of providing service, or its revenue requirement, and to determine appropriate rate structure, which includes, among other things, the appropriate allocation of the revenue requirement to various customer classes. However, while these ratemaking norms provide a rational and methodical way to analyze and determine the utility's cost of service, they also permit the consideration and weighing of important factors

[718] *Lloyd*, 904 A.2d at 1019-21.

[719] PAWC St. 10, pp. 49-50.

[720] *Peoples Nat. Gas Co. v. Pa. Pub. Util. Comm'n*, 409 A.2d 446, 456 (Pa. Cmwlth. 1979) (citations omitted).

> or principles in setting just and reasonable rates, such as quality of service, gradualism, and rate affordability.
>
> We acknowledge that there are several factors that must be considered when designing a rate recovery proposal, one of which is the concept of gradualism and affordability, which are classic small water company challenges faced by many similar-sized utilities across the nation. However, while affordability is permitted to be considered, it is but one of many factors to be considered and weighed by the Commission in determining a utility's rates. The rate increase reflects the business challenges the Company currently faces, including required investments in the repair/replacement or improvement of its distribution systems, including acquired troubled water utilities' distribution system; and the high costs associated with maintaining a distribution system necessary to provide safe and reliable water and wastewater service within the Commonwealth.[721]

The Company relied upon the provisions of Act 11 in developing its proposed rates in this case. As explained by PAWC witness Everette:

> [T]he authority granted by Act 11 would be used to mitigate the increases that wastewater customers in certain service areas would experience if their rates were established on a stand-alone basis. The Company's proposed rates would also make meaningful progress in moving rates of its separate wastewater rate zones closer to a single consolidated wastewater rate design for all of the Company's wastewater operations.[722]

Moreover, the Company averred that its proposed rates would make reasonable movement toward the system average rate of return by the customer classes as measured by the cost of service studies,[723] and that its proposal will ensure approximate parity to residential bills for water service and wastewater service at average usage levels, and promote affordability of wastewater.[724]

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721 *Pa. Pub. Util. Comm'n v. Cmty. Utils. Inc.*, Docket R-2021-3025206, at 65-66 (Opinion and Order entered January 13, 2022) (citations omitted).

722 PAWC St. 1, p. 20.

723 PAWC St. 1, pp. 19-20.

724 PAWC St. 10, pp. 47-50; PAWC St. 10-R, p. 3.

I&E notes that simply removing BASA and Brentwood systems from this proceeding reduces the Act 11 subsidy to $47,969,463, ultimately removing the need for any subsidy at all. The OCA believes that it is reasonable to provide some Act 11 relief to customers, namely SSS and CSS customers, from rate increases while not overburdening Water customers. PAWLUG supports adoption of PAWC's cost of service studies subject only to the Residential customer class maximum hour demand ratio from 5.0 to 6.0. With regard to PAWC's proposed revenue allocation, PAWLUG recommends that the Commission slightly modify PAWC's allocation of the Act 11 subsidy to reflect cost causation for directly assignable costs. For its part, Cleveland-Cliffs maintains that it is appropriate to allocate any subsidy approved by the Commission based on the underlying water cost of service percentages from PAWC's cost of service studies.

Act 11 became effective in 2012 and is codified in Section 1311(c) of the Public Utility Code. This section permits wastewater revenue to be allocated to a utility's water customers which is in the public interest to do so:

> When any public utility furnishes more than one of the different types of utility service, the commission shall segregate the property used and useful in furnishing each type of such service, and shall not consider the property of such public utility as a unit in determining the value of the rate base of such public utility for the purpose of fixing base rates. A utility that provides water and wastewater service shall be exempt from this subsection upon petition of a utility to combine water and wastewater revenue requirements. The commission, when setting base rates, after notice and an opportunity to be heard, may allocate a portion of the wastewater revenue requirement to the combined water and wastewater customer base if in the public interest.

Thus, Act 11 allows a utility that provides both water and wastewater service, such as PAWC, to allocate a portion of the wastewater requirement to the combined water and wastewater customer base if doing so is in the public interest. In its policy statement implementing Act 11, the Commission noted that one of the benefits of Section 1311(c) is that the costs of necessary upgrades to wastewater systems to maintain safe and reliable service, which can be substantial on a stand-alone basis, can be spread among the common customer base of water and wastewater utilities.[725] On this premise, the Commission has approved such allocation of revenue from wastewater customers to water customers.[726]

Upon review of the positions of the parties as well as the record, we recommend that the Commission adopt the OCA's proposed methodology for revenue allocation of the Act 11 subsidy in this case. The OCA's approach constitutes a reasonable balance that will afford some rate relief to PAWC's wastewater customers while still moving Wastewater SSS and CSS rates closer to their cost of service without excessively burdening PAWC's water customers.

We further agree with OCA's recommendation that 75% of the Wastewater SSS revenue requirement increase and 50% of the CSS Wastewater revenue requirement increase be assigned to water customers. While this will result in more substantial rate increases for WW CSS customers like those in Scranton, we agree this is more reasonable than the Company's 0% increase. Consistent with the adjustments discussed throughout this Recommended Decision, this results in the Act 11 Wastewater Allocations and Proposed Revenues for Water, WW SSS, and WW CSS detailed in Table Act 11.

F. Tariff Structure – Residential Customer Charge

1. PAWC's Position

OCA witness Mierzwa recommends keeping existing customer charges at the current rate level for residential water customers, based on his analysis of direct customer

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725 Docket No. M-2012-2293611 (Tentative Implementation Order entered May 12, 2012, and Final Implementation Order entered August 2, 2012).

726 *See*, e.g., *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc*., Docket Nos. R-2018-3003558, R-2018-3003561, et al., 2019 Pa. PUC LEXIS 170 (Order entered May 9, 2019) ("Aqua 2018"); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2017-2595853 (Order entered December 7, 2017) ("2017 PAWC Order"); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2013-2355276 (Order entered December 19, 2013) ("2013 PAWC Order"); *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket Nos. R-2012-2336379 (Recommended Decision dated Dec. 6, 2013), adopted without modification (Order entered Jan. 9, 2014) ("York Water 2013").

costs.[727] As PAWC witness Heppenstall explained, the OCA's direct cost analysis improperly omits office building and furniture expenses that are directly related to billing and collections functions. [728] The OCA sought to exclude similar costs from consideration of the customer charge in Aqua's most recent rate case. The Commission rejected the OCA's claims, finding that the customer-related costs, which Aqua described as necessary for the support of customer facilities and customer accounting, are includable and that OCA's proposed limitation was "unreasonably narrow."[729] The Commission should reach the same conclusion here. The Commission should also find that the Company's wastewater cost analysis properly reflects a portion of infiltration and inflow costs. PAWC MB at 62; PAWC RB at 52.

CEO witness Jennifer Warabak also opposes any increase in PAWC's fixed monthly customer charge for residential water customers but did not offer a cost of service basis for her recommendation.[730] PAWC's proposed residential customer charges supported by Ms. Heppenstall's direct cost analysis should be accepted. PAWC MB at 62.

2. I&E's Position

A customer cost analysis is a part of a cost of service study that is used to determine the appropriate fixed customer charges for the various classes and meter sizes. It is necessary to perform a customer cost analysis because a fixed customer charge represents the revenue that the Company is guaranteed to receive each month, regardless of the level of usage. As acknowledged in the seventh edition of the American Water Works Association M1 Manual, there is a tradeoff between revenue stability from a high customer charge, and affordability and conservation from a low customer charge and higher usage rates.[731] I&E MB at 72.

727 OCA St. 4, pp. 35-36

728 PAWC St. 12-R, pp. 9-10.

729 *Aqua 2022* at 268-69.

730 CEO St. 1, pp. 5-6.

731 AWWA Manual of Water Supply Practices M1 Principles of Water Rates, Fees, Charges, Seventh Edition. pp. 154-155.

There are two different types of customer costs: direct and indirect. A direct customer cost is a cost that changes with the increase or decrease of a single customer. An indirect customer cost is a customer related cost that does not change with the increase or decrease of a single customer. Fixed costs assigned to the customer charge are limited to those fixed costs for which there is a direct impact from an individual customer. For example, each individual customer requires a meter and a bill. Therefore, fixed costs associated with meters and billing are properly attributable to the fixed customer charge. The Commission has allowed, in past instances, certain indirect customer costs to be included in a customer cost analysis and thus recovered in a customer charge. As an example, in previous cases, the Commission has allowed the indirect cost of Employee Pension and Benefits. I&E MB at 72-73.

a. Water Customer Charges

For water customers, I&E recommends a residential customer charge of $20.00. The customer charges presented by I&E would all be the result of the Commission granting PAWC its full requested increase. In the event that less than the full requested increase is granted, I&E recommends these customer charges be scaled back. I&E MB at 73-74.,

Regarding residential customers with meter sizes over 2”, commercial, and municipal customers, I&E witness Cline accepted the Company’s proposed customer charges for those customers as all increases were in the 7%-8% range which Mr. Cline finds to be reasonable for a customer charge.[732] In addition, Mr. Cline did not make any adjustments to the Company’s proposed customer charge for the Industrial and Other Water Utilities Monthly, Groups A and B, because while those classes have a larger percentage increase in their customer charge, the percent increase for an average industrial customer is reasonable.[733] I&E MB at 75.

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[732] I&E St. 4, pp. 34-35.

[733] I&E St. 4, p. 35.

b. Wastewater Customer Charges

The Company provided one COSS for the SSS Operations - Zones 1, 2, 5, 7, 8, and 9.[734] This COSS included a customer cost analysis that claims the SSS Operations wastewater customer cost is comprised of $13.87 per month of direct customer costs, and $29.63 per month of Inflow and Infiltration (I&I) costs for a total cost of $43.50 for a Residential customer.[735] I&E MB at 75.

Regarding Wastewater SSS Operations, I&E witness Kubas recommends a $15.00 per month customer charge, which is an increase of $0.70.[736] Mr. Kubas explains that the $15.00 per month customer charge will recover more than the direct customer cost of $13.87 per month plus a small portion of the I&I costs identified by the Company. Furthermore, this 4.9% increase will provide sufficient revenue, while limiting the increase to low-usage residential customers. Regarding the inclusion of I&I costs, Mr. Kubas notes that these costs relate to flow, which does not vary with the number of customers.[737] Nonetheless, Mr. Kubas notes that it is appropriate to recover a small portion of these costs through the customer charge, but it would be improper to recover more than a small portion of those I&I costs through this mechanism.[738] I&E MB at 75-76.

For Wastewater SSS Operations commercial customers, I&E witness Kubas recommends a customer charge of $36.70, or an increase of $1.70 from the current $35.00

[734] PAWC Initial Filing Volume 17, Ex. 12-B.

[735] PAWC Initial Filing Volume 17, Ex. 12-B, Sch. RS1 j. Responses p. 2.

[736] I&E St. 3, p. 19

[737] I&E St. 3, p. 19.

[738] I&E St. 3, p. 19.

customer charge.[739] This is a 4.9% increase, which matches the increase Mr. Kubas recommended for residential customers.[740] I&E MB at 76.

3. OCA's Position

a. Water

The current customer charge for Residential customers in Rate Zones 1 through 5 with 5/8-inch, 3/4-inch, 1-inch, and 1½-inch meters is $17.50 per month.[741, 742] PAWC's proposal to increase the Residential customer charge from $17.50 to $20.00 (14.3%) for these customers is not reasonable. Only those costs that vary directly with the addition or subtraction of a customer should be included in the calculation of a customer charge.[743] PAWC's analysis for customer charges, which it claims only reflects direct costs, indicates a cost-based charge of $19.31, which is less than its proposed charge of $20.[744] OCA MB at 76-77.

Moreover, PAWC's analysis includes costs that are not direct customer costs and do not change with the addition or subtraction of a customer, including office building and furniture expenses.[745] These costs relate to PAWC's general operation as a utility. Not all of a utility's fixed expenses for operation are properly included in a customer cost analysis and the Commission has generally permitted only expenses directly related to meter reading, customer

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[739] I&E St. 3, p. 26.

[740] I&E St. 3, pp. 26-27.

[741] Most Residential water customers in PAWC's service territory are served by a 5/8-inch meter. OCA St. 4, p. 34.

[742] PAWC Ex. CBR-3.

[743] OCA St. 4, p. 35.

[744] PAWC Ex. 12-A, Att. RS1j, 2-3.

[745] OCA St. 4, pp. 35-36.

service, accounting and customer records and collections.[746] Where the Commission has permitted allocated portions of indirect costs, on a case-by-case basis, it has allowed costs associated with direct labor costs, including employee benefits, workers compensation insurance and payroll taxes.[747] Significantly, the Commission stated: "We caution that these are costs which may be considered for inclusion in the customer charge, but such claims are subject to scrutiny on a case-by-case basis."[748] Furthermore, since *PSW 2004*, the Commission has rejected a utility's proposed customer charge increase based on a cost analysis that included indirect costs.[749] OCA Schedule JDM-4SR provides a calculation adjusting the Company's calculated direct customer charge, at PAWC's filed-for revenue requirement increase, to remove the improperly included office building and furniture costs and to reflect the OCA's recommended rate of return. As shown in Schedule JDM-4SR, these adjustments reduce the calculated charge to $18.73. Other Commission-approved adjustments to PAWC's revenue requirement claim are likely to further reduce the calculated direct customer charge.[750] Based on the OCA's overall position on revenue requirement, the OCA recommends the existing $17.50 monthly charge for Residential customers should be maintained. Any additional revenue to be recovered from Residential customers should be recovered through increases in volumetric usage charges.[751]
OCA MB at 77-78.

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[746] *See, e.g., Pa. Pub. Util. Comm'n v. Metro. Edison Co.*, 60 Pa.P.U.C. 349 (1985); *Pa. Pub. Util. Comn'n v. Nat'l Fuel Gas Dist. Corp.*, 83 Pa.P.U.C. 262, 371 (1994); *PPL 2004* at 461.

[747] *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc*., 236 PUR 4th 218 (Pa. PUC 2004) (*PSW 2004*).

[748] *Id.* at 251.

[749] *Pa. Pub. Util. Comm'n v. PPL Gas Util. Corp.*, 2007 Pa.P.U.C. LEXIS 2, *210 (Order Feb. 8, 2007).

[750] OCA St. 4, p. 36.

[751] *Id* at 35.

b. Wastewater

For Wastewater, the current residential monthly customer charge for most Rate Zones is $14.30 per month.[752] PAWC is proposing to increase that charge to $20 per month, or by 39.9%, with the exception of Scranton Rate Zone 3 where it proposes to set the Residential customer charge at $19.72 per month.[753] The Company presents a customer cost analysis which it claims only reflects direct costs, which indicates that a cost-based monthly customer charge for a 5/8-inch meter would be $43.50.[754] However, PAWC's direct customer charge calculation improperly includes the costs associated with collecting and treating Infiltration and Inflow (I/I). I/I cannot reasonably be considered a direct cost because it is largely a function of precipitation and, therefore, does not vary directly with the addition or subtraction of a customer.[755] OCA MB at 78.

Exclusive of I/I costs, the Company's calculation of customer costs would indicate a direct cost of $13.87 at PAWC's proposed revenue requirement, which is less than current Wastewater customer charges.[756] As such, the current customer charges in Rate Zones 1, 2, 5, and 6 should be maintained, the current Residential customer service charges in Rate Zones 3, 4, 7, and 9 should be reduced to $14.30, and any additional revenue to be recovered from Residential customers should be recovered through increases in volumetric usage charges.[757] These recommendations are supported by the testimony of OCA witness Colton with regard to the impact of higher fixed charges on customers' ability to control their bills. OCA MB at 78-79.

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[752] OCA St. 4, p. 46.

[753] PAWC St. 10, pp. 41-42.

[754] PAWC Ex. 12-B, Attachment RS1j, page 2.

[755] OCA St. 4, p. 46.

[756] *Id* at 47
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[757] *Id*.

Given these cost-based and bill affordability reasons, the argument of PAWC witness Rea that the customer charges should be increased to match the $20 proposed for water customers should be rejected.[758] I&E witness Kubas's objections should also be dismissed. Mr. Kubas's primary concern is with the customer charges for CSS Wastewater Rate Zones 3, 4, and 6. His support for a $20 charge is not cost-based, whereas maintaining the $14.30 charge would set the charge at a level that was comparable to a cost-based rate.[759] Further, for each of the CSS Wastewater rate zones, the decrease in revenues from reducing the customer charge would only require an increase of 7% to 10% in volumetric usage charges.[760] OCA MB at 79.

4. ALJs' Recommendation

a. Water

In the present case, PAWC has proposed to increase the residential 5/8, ¾, 1, and 1½, inch customer charges from $17.50 to $20.00 in the FPFTY. I&E agreed with PAWC's proposed increase to the monthly water residential customer charge, noting that all of the proposed increases were in the 7% to 8% range, which it deemed to be a reasonable increase for a customer charge.[761] OCA averred that PAWC's monthly residential water customer charges should remain at their current rates.[762] The OCA further averred that PAWC's analysis includes costs that are not direct customer costs and do not change with the addition or subtraction of a customer, including office building and furniture expenses.

Upon review of the record, we find that PAWC's proposal to increase the monthly water residential customer charge from $17.50 to $20.00 in the FPFTY is justified. As noted by I&E, the Company provided a second customer cost analysis that relies on the allocation of costs

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758 PAWC St. 10R, p. 61.

759 OCA St. 4SR, p. 40.

760 *Id*.

761 I&E St. 4, pp. 34-35; I&E St. 4-SR, p. 26.

762 OCA MB at 78.

that is more directly applicable to customers, which clearly supported the Company's proposed $20.00 monthly water residential customer charge.[763] We disagree with the OCA's argument that PAWC's analysis includes costs that are not direct customer costs. As noted by the Company, the OCA sought to exclude similar costs from consideration of the residential customer charge in Aqua's most recent base rate case which the Commission rejected.[764] In its Order, the Commission indicated that "[w]e find that the OCA proposed limitation of costs excludes customer costs that should be included in a customer charge and is unreasonably narrow."[765] We believe the same to be true in this instance.

Accordingly, we recommend that the Commission adopt PAWC's proposal to increase the monthly residential customer charge from $17.50 to $20.00.

b. Wastewater

Regarding PAWC's Wastewater SSS operations, most rate zones currently have a monthly wastewater residential customer charge of $14.30. PAWC is proposing to increase that charge to $20.00 per month. The OCA avers that the monthly wastewater residential customer charge should remain unchanged in Rate Zones 1, 2, 5, and 6, while the monthly residential wastewater customer charges in Rate Zones 3, 4, 7, and 9 should be reduced to $14.30 with any additional revenue to be recovered from residential customers through increases in volumetric usage charges. I&E supports a monthly wastewater residential customer charge of $15.00.

We recommend that the Commission adopt I&E's proposed increase to the monthly wastewater residential customer charge. As noted by I&E, a $15.00 per month customer charge will recover more than the direct customer cost of $13.87 per month plus a small portion of the I&I costs identified by the Company. We also agree with I&E's proposal to

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[763] I&E St. 4-SR, pp. 21, 25-26.

[764] *Aqua 2022* at 268-69.

[765] *Id* at 269.

limit the amount of I&I costs to be recovered through the customer charge. As explained by I&E Witness Kubas:

> I recognize that I&I costs are a large portion of the cost of operating wastewater systems. However, I&I costs relate to flow, which does not vary with the number of customers, a typical criterion for determining if a cost should be recovered in the customer charge. Therefore, I recommend only a small part of I&I costs be recovered in the customer charge to generate revenue, but I believe it is improper to recover more than a small amount of the cost of I&I in the customer charge.[766]

Lastly, we agree with I&E that its $0.70 increase, which constitutes a 4.9% increase, will provide the Company with sufficient revenue while limiting the increase to low-usage residential customers.[767]

Although no one else addressed it, we also agree with I&E's proposal to increase the monthly wastewater customer charge from $35.00 to $36.70, or by $1.70, for Wastewater SSS Operations commercial customers. Similar to the residential customer charge, this constitutes an increase of 4.9%, which is a reasonable increase to the monthly wastewater customer charge for Wastewater SSS' commercial customers.

G. Tariff Structure – Water Rate Design

1. PAWC's Position

a. Class Revenue Allocations

OSBA witness Higgins and Cleveland Cliff witness Baudino offered alternative water class revenue allocations. Mr. Higgins initially recommended a $5.3 million reduction to

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766 I&E St. 3, p. 19.

767 *Id*.

the Commercial class offset by a $5.3 million increase to the Municipal class.[768] Mr. Higgins subsequently updated his proposed revenue allocation based on the results of his rebuttal cost of service study.[769] Mr. Baudino recommends an alternative revenue allocation that results in a higher increase for the Municipal class and a lower increase for the Residential, Commercial, Industrial, and Private Fire classes.[770] The OSBA and Cleveland Cliff both propose a higher increase to the Municipal class than proposed by the Company, with corresponding lower increases to other customer classes to compensate. While the Company believes that its proposed water revenue allocation is reasonable for the reasons explained by Mr. Rea, it does not oppose the higher increases for the Municipal class proposed by Mr. Higgins and Mr. Baudino with offsetting decreases to other customer classes.[771] OCA witness Mierzwa also presents an alternative revenue allocation for water service based on his alternative cost of service study, adjusted to provide for gradualism.[772] Mr. Mierzwa's proposal should be rejected since it is based on a deficient COSS. PAWC MB at 62-63.

b. Meter Charges

PAWC's proposed meter charges are reasonable and the Commission should reject the alternative proposals from OCA, CEO, Cleveland Cliff, PAWLUG, and I&E.[773] PAWLUG witness LaConte's and Mr. Baudino's proposals would result in increased meter charges with no cost-basis. I&E witness Cline's recommendation to adopt a Rate Zone 1 residential customer charge of $19.50 should also be rejected, as it is based on Mr. Cline's

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768 OSBA St. 1, p. 35.

769 OSBA St. 1-SR, p. 19.

770 Cleveland-Cliffs St. 1, p. 12

771 PAWC St. 10-R, p. 43.

772 OCA St. 4, pp. 33-34.

773 *See* OCA St. 4, pp. 35-36; Cleveland-Cliffs St. 1, pp. 13-14; PAWLUG St. 1, pp. 28-29; I&E St. 4, pp. 30-35.

"extreme" decision to calculate the customer charge based solely on a cost allocation study restricted to direct customer-related costs only.[774] PAWC MB at 63.

c. Volumetric Rates

The alternative volumetric rates proposed by I&E, the OCA, PAWLUG, and Cleveland-Cliffs should be rejected.[775] Mr. Cline and Mr. Mierzwa have not shown that the Company's proposed Rate Zone 2 and Rate Zone 4 rates are unreasonable, and adoption of their recommendations would impede the full integration of those rate zones into Rate Zone 1.[776] Further, Ms. LaConte's and Mr. Baudino's recommendations conflict with the intent to design industrial rates to collect total revenue allocated to that class less revenues from current industrial meter charges.[777] PAWC MB at 63-64.

2. I&E's Position

I&E notes that the Company's filing includes primarily six different rate zones. Most of PAWC's customers are included in Rate Zone 1 – PAWC and pay the Rate Zone 1 rates. Customers in the remaining rate zones pay present rates that are different from Rate Zone 1 present rates. The remaining rate zones are as follows: Rate Zone 2 – Valley, Rate Zone 3 – SLIBCO, Rate Zone 4 – Turbotville, Rate Zone 5 – Steelton, Rate Zone X – Audubon, and Rate Zone X - Farmington. It should be noted that, per the I&E recommendation that Audubon and Farmington be removed from this case, the Audubon and Farmington rate zones should also be removed in this case, and, therefore, I&E has not proposed rate changes for those customers. I&E MB at 76.

The Company is proposing to consolidate the monthly metered rates for all classes of customers in Rate Zone 2 – Valley, Rate Zone 3 – SLIBCO, Rate Zone 4 – Turbotville, and Rate

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[774] PAWC St. 10-R, p. 44.

[775] *See* I&E St. 4, pp. 36-41; OCA St. 4, pp. 36-37; PAWLUG St. 1, pp. 28-29; Cleveland-Cliffs St. 1, pp. 13-14.

[776] PAWC St. 10-R, p. 47.

[777] *Id.*

Zone 5 - Steelton into Rate Zone 1 in the FPFTY.[778] In I&E witness Cline's opinion, the rates proposed by the Company that merge the various rate zones described above into Rate Zone 1, are reasonable, except for the proposal to merge Rate Zone 2 – Valley usage rates into Rate Zone 1.[779] I&E MB at 76-77.

As a result of the revenue produced by the customer charge being decreased based on I&E's recommended customer charges compared to the Company's proposed customer charges, under the fully requested revenue increase, I&E avers that the proposed usage rates for the Rate Zone 1 residential class would need to increase slightly, as would the usage rates for any Rate Zones that are being proposed to merge with Rate Zone 1 rates.[780] However, because of I&E's recommendations regarding the Act 11 subsidy, as well as the adjustments made by I&E witnesses Patel and Okum, it is more likely that the usage rate will be subject to a scale back rather than an increase. Therefore, I&E witness Cline did not calculate what the increase would be at the fully proposed increase. I&E MB at 77.

I&E witness Cline recommended adopting the Company's proposed customer charges for the Commercial, Municipal, Industrial, and Other Water Utilities Monthly – Groups A and B rate classes.[781] I&E MB at 77.

Regarding Rate Zone 2, the Company is proposing to set Rate Zone 2 residential and commercial usage rates equal to Rate Zone 1.[782] The Company's proposal to set Rate Zone 2 residential and commercial usage rates equal to Rate Zone 1 would result in the bill for an average Rate Zone 2 residential customer to increase by 63.64%, and the average bill for a commercial customer would increase by 64.37%.[783] For residential customers in Rate Zone 2,

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[778] PAWC St. 10, p. 35.

[779] I&E St. 4-SR, p. 21.

[780] I&E St. 4, p. 36.

[781] I&E St. 4, pp. 34-35.

[782] PAWC Ex. 10-A, pp. 4 and 11.

[783] PAWC Ex. 10-A, pp. 77, 83.

the proposed percent increase is at least double that of the average residential customers in the other rate zones. For Rate Zone 2 commercial customers, the disparity between the percent increases for the other rate zones, apart from Rate Zone 4, is even greater than that of the residential customers. The table presented below shows I&E witness Cline's recommendation regarding Rate Zone 2:

Rate Zone 2 Residential and Commercial Usage Rates[784]			
Usage Level	Present Rate per hundred gal.	I&E Proposed Rate per hundred gal.	Revenue Percent Increase
Residential			
First 3,400 gal.	$1.1000	$1.6000	45.5%
Over 3,400 gal.	$1.1000	$1.6000	45.5%
Commercial			
First 16,000 gal.	$1.1000	$1.6500	55%
Over 16,000 gal.	$1.1000	$1.2540	14%

Witness Cline selected a $1.60 per hundred-gallon usage rate for residential customers because it generated a reasonable percent increase on the total bill of a Rate Zone 2 residential customer. The analysis for Rate Zone 2 Commercial customers were similar, however, Mr. Cline kept the second block usage rate at approximately 76% of the first block, which is the same ratio as the Company's proposed rates.[785] I&E asserts that the percentages resulting from Mr. Clines recommendation are reasonable and should be adopted. I&E MB at 77-78.

I&E witness Cline agrees with the Company's recommendation to set Rate Zone 3 commercial and municipal usage rates equal to Rate Zone 1.[786] I&E MB at 78.

In addition, the Company has proposed to set Rate Zone 4 usage rates for residential, commercial, and municipal customers equal to Rate Zone 1. I&E witness Cline agrees with the Company's recommendation in part. Witness Cline explains the Company's proposal to set the Rate Zone 4 residential and municipal rates equal to Rate Zone 1 is reasonable, but the

784 I&E St. 4, p. 38.

785 I&E St. 4, p. 38.

786 I&E St. 4, p. 39.

Company's proposal to set Rate Zone 4 commercial usage rates equal to Rate Zone 1 would result in the bill for an average Rate Zone 4 commercial customer to increase by 68.56%.[787] This increase is unnecessarily large when compared to the increase proposed for Rate Zone 1 commercial customers. I&E avers that, compared to the proposed increase for Rate Zone 1 commercial customers, the 68.65% increase is far too large. To remedy this, Mr. Cline set the Rate Zone 4 commercial usage rates equal to those of Rate Zone 2 so that Rate Zone 2 and Rate Zone 4 can be merged after this base rate case and likely merged with Rate Zone 1 after the next base rate case.[788] The effect of this is that the percentage increases become far more reasonable. Witness Cline recommends the following usage rates as set forth in the table below:

Rate Zone 4 Residential and Commercial Usage Rates[789]			
Usage Level	Present Rate per hundred gal.	I&E Proposed Rate per hundred gal.	Revenue Percent Increase
Commercial			
First 16,000 gal.	$1.1000	$1.6500	55%
Over 16,000 gal.	$1.1000	$1.2540	14%

I&E MB at 78-79.

Lastly, regarding Rate Zone 5, I&E witness Cline accepts the Company's proposal to set Rate Zone 5 residential, commercial, municipal, and industrial rates equal to that of Rate Zone 1.[790] I&E MB at 79.

3. OCA's Position

In addition to its recommendations regarding the residential customer charges, the OCA also objected to the residential Water usage charge proposed by PAWC for Valley

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787 I&E St. 4, pp. 39-40.

788 I&E St. 4, p. 40.

789 I&E St. 4, p. 40.

790 I&E St. 4, p. 41.

customers currently in Rate Zone 2.[791] PAWC proposes to apply the consolidated Rate Zone 1 usage charge, which would cause a 63% rate increase for a residential customer using 3,201 gallons per month at PAWC's Water revenue requirement claim.[792] PAWC's proposal is more than 2x the system average increase and is not reasonable. To provide for gradualism and to reduce rate shock, the OCA recommends the usage charge for Valley customers currently served under Rate Zone 2 to be set at 70% of the Rate Zone 1 usage charge established in this proceeding. This reduction in the usage charge would limit the increase for a Valley residential customer currently in Rate Zone 2 using 3,201 gallons per month to about 1.7x the OCA's proposed system average increase, which is consistent with the concept of gradualism. I&E agrees that PAWC's proposed increase for Valley customers is unnecessarily large and recommends a more moderate increase.[793] OCA MB at 79-80.

4. PAWLUG's Position

As part of its justification for proposing the RDM and ECIC, PAWC asserts an interest in reducing revenue volatility. PAWLUG opposes approval of the RDM and ECIC. However, for Industrial customers, PAWC can address revenue stability through more traditional means by increasing the Industrial customer charge for customers with meters that are 6" or larger. In this proceeding, PAWC proposed no increase at all to the Industrial customer charge.[794] In order to ensure more stable revenue from the Industrial customer class, PAWLUG proposes that adoption of the below modified rate design developed by witness LaConte:

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[791] OCA St. 4, pp. 36-37.

[792] *Id*.; PAWC Ex. 10-A at 77.

[793] I&E St. 4, pp. 37-38; I&E St. 4SR, p. 28.

[794] PAWLUG St. 1, p. 28.

PAWLUG Main Brief Table 2[795] Revised Industrial Rate Design			
Description	**Current**	**PAWC**	**PAWLUG**
Customer Charge			
6" Meter	$1,401	$1,401	$2,802
8" Meter	$2,243	$2,243	$4,486
10" Meter	$3,223	$3,223	$6,446
Volumetric Charge			
First 16,000 Gal	$1.4200	$1.9128	$2.8565
Next 584,000 Gal	$1.0804	$1.4824	$1.4083
All Over 600,000 Gal	$0.8499	$1.1477	$1.0329
Above 15,000,000 Gal	$0.5110	$0.6852	$0.6167

PAWLUG's revised rate design would recover 17% of PAWC's Industrial revenue requirement through the fixed charges, compared to PAWC's determination that 95% of its operating costs are fixed.[796] PAWLUG MB at 26.

PAWC opposes PAWLUG's proposed rate design on the basis that it is not cost-based.[797] However, PAWC's customer charge analysis only provides a cost basis for the 5/8 meter customer charge.[798] As PAWC has not established the cost-basis for the existing Industrial customer charge and the overall revenue requirement allocated to Industrial customers would remain unchanged by PAWLUG's proposed rate design, the proposal is reasonable and should be approved by the Commission. PAWLUG MB at 27.

795 *Id* at 29 (originally presented as PAWLUG Direct Testimony Table 3).

796 *Id* at 28.

797 PAWC St. 10-R, p. at 45.

798 PAWC St. 10, Ex. 10-A.

5. Cleveland-Cliffs' Position

PAWC does not propose any increase to the existing Industrial meter charges and instead seeks to collect the entire Industrial revenue increase through the volumetric charges. This is problematic because, as PAWC witness Rea himself notes on page 86 of his Direct Testimony, over 95% of the Company's costs are fixed and do not vary with water consumption. Volumetric rates collect these costs based on the volumes of water consumed by the water service rate classes. As consumption varies month to month and year to year, PAWC's collection of its fixed costs will vary as well, introducing more variability in its revenues and earnings than if more of these costs were collected from fixed charges, such as meter charges.[799] Cleveland-Cliffs MB at 6.

To the extent practicable, fixed costs should be collected through fixed charges. PAWC's proposed rate design would collect even more of the Company's fixed costs through volumetric rates, which moves in the opposite direction from cost-causation. On the other hand, PAWLUG witness LaConte recommended an Industrial rate design that more closely aligns with cost-causation than that of PAWC.[800] Ms. Laconte proposes to approximately double the Industrial meter charges and provide for smaller percentage increases to the volumetric charges. While PAWC's description of its variable versus fixed costs would justify an even greater increase in Industrial fixed charges than proposed by PAWLUG, Ms. Laconte's proposal is a step in the right direction and would ensure that more of the Company's fixed costs would be collected through a meter charge. Cleveland-Cliffs MB at 6-7.

Cleveland-Cliffs recommends that the Commission either approve Ms. Laconte's proposed rate design for the Industrial class, or at the very least, increase Industrial customer charges by the same percentage as Industrial volumetric charges. Cleveland-Cliffs MB at 7.

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799 *Id* at 13-14.

800 Laconte Direct, p. 28.

6. Victory Brewing's Position

PAWC presented its proposed rate design in the direct testimony of Charles Rea.[801] In critiquing PAWC's proposed rate design, witness Richard A. Baudino for Cleveland-Cliffs recommended higher customer charges and lower volumetric charges for large industrial customers.[802] Victory Brewing agrees with this approach as it allows a customer to reduce their bills through conservation, when possible. This outcome is consistent with prior rulings of the PUC. For instance, the Commission has recognized that it is appropriate to set a customer charge that ensures the recovery of fixed costs that are "clearly more customer-related than usage-related, while still allowing some revenue to be recovered through usage-based charges."[803] Victory Brewing MB at 8.

7. City of Scranton's Position

The City of Scranton respectfully requests that the Commission deny the request for a water tariff increase. The City notes that its residents are already struggling to make ends meet, and the additional burden of an increase to water rates would make meeting those ends even harder for a population that deserves a break from rate increases.

8. ALJs' Recommendation

PAWC currently offers water service in five different rate zones. These include: Rate Zone 1 – General Statewide Rate; Rate Zone 2 – Valley; Rate Zone 3 – SLIBCO; Rate Zone 4 – Turbotville; and Rate Zone 5 – Steelton. The largest of these rate zones is Rate Zone 1, which includes over 99% of the Company's total water revenue. PAWC is proposing to move

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801 PAWC St. 10.

802 Cleveland-Cliffs St. 1, pp. 13-14.

803 *Pa. Pub. Util. Comm'n v. PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597, 2012 Pa. PUC LEXIS1757 (Recommended Decision issued Oct. 19, 2010, Opinion and Order entered Dec. 28, 2012) (rejecting I&E's and OCA's position of "no increase" to the customer charge because it was not based on a proper cost analysis) (citing *Pa. Publ. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00038805, 2004 Pa. PUC LEXIS 39, 236 P.U.R.4th 218 (Aug. 5, 2004)).

Rate Zone 2 Valley, Rate Zone 3 SLIBCO, Rate Zone 4 Turbotville, and Rate Zone 5 Steelton rates to Rate Zone 1 rates. The only changes in volumetric rate structure proposed by PAWC in this matter are changes in the steps for volumetric rates necessary to move Steelton, Valley, and SLIBCO rate zones to Rate Zone 1 rates. The Company has not proposed any other changes to volumetric rate structure.[804]

We agree with I&E that the Company's proposal to consolidate the monthly metered rates for all classes of customers in Rate Zone 2 – Valley, Rate Zone 3 – SLIBCO, Rate Zone 4 – Turbotville, and Rate Zone 5 – Steelton into Rate Zone 1 in the FPFTY are reasonable, with the exception of Rate Zone 2 – Valley. The proposed change would cause a 63% rate increase for a residential customer using 3,201 gallons per month, making it twice the system average. We agree with I&E's alternate proposal of $1.60 per hundred-gallon usage rate for residential customers. We agree with I&E's proposed rate as it will generate a reasonable increase on the total bill of a Rate Zone 2 residential customer. We similarly agree with I&E's proposed adjustment to commercial customer rate ($1.6500 for the first 16,000 gallons, $1.2540 over 16,000 gallons) will generate a reasonable increase for the commercial customer class and should be adopted.

We also agree with I&E's concerns regarding the Company's proposed consolidation of Rate Zone 4 – Turbotville into Rate Zone 1. I&E witness Cline agreed with the proposal insofar as it consolidated residential and municipal rates with Rate Zone 1, which is reasonable. However, Mr. Cline highlighted that the Company's proposal as it relates to commercial usage would result in a 68.56% average bill increase for the Rate Zone 4 – Turbotville customer, which is excessive when compared to the Rate Zone 1 commercial customer. Accordingly, we agree with I&E witness Cline's proposal to set the Rate Zone 4 commercial usage rates equal to the Rate Zone 2 commercial usage rate ($1.6500 for the first 16,000 gallons, $1.2540 over 16,000 gallons) so that Rate Zones 2 and 4 may be merged after this base rate case, with the goal to merge Rate Zone 4 with Rate Zone 1 after PAWC's next base rate case. We agree that this proposal will result in a far more reasonable increase than proposed by the Company.

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[804] PAWC St. 10, pp. 31, 35.

Separately, we agree with the Company that PAWLUG's proposal to increase the Industrial customer charge for customers with meters that are 6" or larger should be rejected. As noted by the Company, PAWLUG's proposed rate design is not cost based. PAWLUG's response to the Company's position, that PAWC's customer charge analysis only provides a cost basis for the 5/8" meter customer charge, PAWC has not established the cost-basis for the existing Industrial customer charge, and the overall revenue requirement allocated to Industrial customers would not change is not persuasive. As noted by PAWC witness Rea, volumetric rates for industrial customers should be designed to collect the total revenue allocated to that class less revenue from current industrial meter charges.

Lastly, since the Company does not oppose the higher increases for the Municipal class proposed by OSBA and Cleveland-Cliffs, we recommend that the Commission adopt this proposal.

H. Tariff Structure – Wastewater Rate Design

1. PAWC's Position

a. General SSS Operations

I&E and the OCA proposed various increases to SSS rates.[805] I&E witness Kubas's and OCA witness Mierzwa's recommendations take into account their COSS recommendations and modifications to the Company's Act 11 allocation, which should be rejected for the reasons set forth previously relating to cost of service studies and revenue allocation and Act 11. In addition, Mr. Kubas's recommendations do not properly take into account affordability for SSS customers. The Commission should also reject Mr. Kubas's and Mr. Mierzwa's proposed reduction to the residential service charge to be consistent with charges to other residential customers, as well as Mr. Kubas's recommended charges for unmetered

805 *See* I&E St. 3, Sch. 3; OCA St. 4, pp. 39, 46-48.

service, and rates for special flat rate customers, in order to be consistent with the overall increase for the SSS group.[806] PAWC MB at 64.

i. York Bulk Customers

PAWC's proposed rate increase for seven bulk wastewater customers that are served by the York system (the "York Bulk Customers") are reasonable.[807] Consistent with the contracts that PAWC negotiated with these customers when PAWC acquired the York system, PAWC proposed a 9.9% increase in rates over two years, resulting in an annual increase of approximately 4.45%. These modest increases are justified because the York Bulk Customers have viable competitive alternatives to receiving service from PAWC.[808] The proposed rate increases, while modest will nevertheless cover the variable costs of bulk treatment service and provide a meaningful contribution to the total fixed costs incurred to furnish wastewater service to retail customers in the Company's WW SSS General Operations.[809] PAWC MB at 64-65.

I&E witness Kubas disputes PAWC's claim that the York Bulk Customers have competitive alternatives and recommends a 50% increase to their contract rates.[810] Contrary to Mr. Kubas's claim, PAWC presented extensive evidence about the competitive alternatives available to the York Bulk Customers, including affidavits demonstrating that they had competitive alternatives at the time of the acquisition of the York system and continue to have alternatives to bulk wastewater service from PAWC.[811] Moreover, Mr. Kubas admitted during

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[806] OCA St. 10-R, pp. 58-59.

[807] The Bulk Customers consist of The York Water Company, which is the owner of the former West York Borough Collection System; Springettsbury Township; North York Borough; York Township; Manchester Township; West Manchester Township; and Spring Garden Township.

[808] PAWC St. 3, pp. 66-69; PAWC St. 6-R, p. 18.

[809] PAWC St. 12, p. 9.

[810] I&E St. 3, pp. 48-50.

[811] PAWC St. 6-R, pp. 19-22; PAWC Ex. ECA-1R (CONFIDENTIAL); PAWC Ex. ECA-2R.

the evidentiary hearing that the York Bulk Customers have competitive alternatives.[812] Accordingly, PAWC avers that the Commission should deny Mr. Kubas's unsupported rate increase for the York Bulk Customers. PAWC MB at 65.

b. BASA Operations

PAWC avers that the Commission should accept PAWC's proposed rate design for BASA. Mr. Kubas and Mr. Mierzwa do not address rate design for BASA, as their rate design recommendations assume BASA has been removed from the Company's claim.[813] PAWC MB at 67.

c. CSS Operations

Mr. Kubas' and Mr. Mierzwa's recommendations[814] take into account their cost of service recommendations and modifications to the Company's Act 11 allocation, which should be rejected for the reasons provided by the Company regarding Cost of Service Studies and Revenue Allocation and Act 11. In addition, the Commission should reject Mr. Mierzwa's proposal with respect to the residential service charge for the same reasons described above relative to the SSS customer charge.[815] PAWC MB at 67-68.

2. I&E's Position

a. Wastewater SSS Operations

The Company provided a COSS for wastewater SSS Operations – Zones 1, 2, 5, 7, 8, and 9. This COSS included a customer cost analysis that claims the SSS Operations

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812 Tr. 2155-56.

813 PAWC St. 10-R, p. 62.

814 *See* I&E St. 3, Sch. 17; OCA St. 4, pp. 39; 46-48.

815 PAWC St. 10-R, p. 51.

wastewater customer cost is comprised of $13.87 per month of direct customer costs, and $29.63 per month of Inflow and Infiltration costs for a total cost of $43.50 for a Residential customer.[816] The Company proposed that present rate revenue be decreased from $95,470,866 to $95,301,613 which is a decrease of $169,253 or 0.2% which creates a revenue shortfall of $31,962,411.[817] I&E witness Kubas' goal was to reduce the $31,962,411 subsidy the Company claims is needed in the SSS Operations.[818] Most PAWC water customers are not wastewater customers, which would make it unreasonable for them to subsidize wastewater customers to the extent PAWC has proposed. OCA witness Hoover explains that PAWC has approximately nine times the water customers than wastewater customers.[819] The total increase in the SSS system that is recommend by Mr. Kubas is $32,265,198 which results in a remaining subsidy in the SSS Operations of $321,682.[820] Mr. Kubas used the Company's COSS to develop the various wastewater rates that moves the relative rate of return of each class towards 1.0.[821] I&E MB at 79-80.

In the Wastewater SSS Operations, Caln, West Brandywine, the VA Medical Center (VA), St Lawrence Borough (St. Lawrence) in Zone 1, and various Bulk contracts in Zone 7 are charged special municipal rates.[822] For Caln, West Brandywine, and the VA, the Company proposed the customer charge increase from $415.00 to $430.00 per month and the usage $1.450 per hundred gallons to $1.490 per hundred gallons; for St. Lawrence, the Company does not charge a customer charge but did propose to increase the present usage rate of $0.400 per hundred gallons to $0.412 per hundred gallons.[823] However, it is I&E's position that these customers should receive a higher percentage increase. Rates should be based on cost. A review

816 I&E St. 3, p.15.

817 I&E St. 4, pp. 15-16.

818 I&E St. 4, p. 17.

819 OCA St. 1, p. 7.

820 I&E St. 4, p. 17.

821 I&E St. 4, p. 17.

822 PAWC Initial Filing Volume 9, Ex, 10-B, p. 31.

823 PAWC Initial Filing Volume 9, Ex. 10-B, p 31.

of the rates charged to the VA/Bulk class demonstrates that the rates proposed are not cost based. After applying PAWC's increase, the relative rate of return for these customers is 0.87, which demonstrates they are not paying their cost to serve.[824] Therefore, Mr. Kubas recommends rates that move these customers closer to the cost to serve. For Caln, West Brandywine, and the VA, I&E witness Kubas recommends a monthly charge of $456.50 and a usage rate of $1.680 per hundred gallons.[825] In addition, Mr. Kubas recommends the Company begin to charge St. Lawrence a monthly customer charge of $456.50 in accordance with the general tariff provision requiring all customers to pay a monthly customer charge.[826] I&E MB at 80-81.

b. York Bulk Rates

For the York Bulk customers, PAWC has proposed to charge two different usage rates. For the first rate, the Company proposed the present usage rate be increased from $0.3750 per hundred gallons to $0.4123 per hundred gallons. For the second usage rate, the Company proposed the present usage rate of $0.249 per hundred gallons increase to $0.2737 per hundred gallons. These 9.9% increases are over the two-year period 2023-2025 which results in an annual increase of approximately 4.45% per year.[827] The Company limited these increases claiming these customers have competitive alternatives. I&E witness Kubas finds the Company's argument that these customers have competitive alternatives to be speculative at best and recommends further increases to these rates of approximately 50%. I&E MB at 81.

Under present rates, the York Bulk Users are receiving a subsidy from the other customers of $9,879,620 even after contributing $7,702,598 of revenue, putting the low level of revenue from these bulk customers into perspective.[828] The Company has not provided sufficient evidence to demonstrate these customers have a competitive alternative, and without that

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[824] I&E St. 3, p. 45.

[825] *Id* at 46.

[826] *Id*.

[827] PAWC Initial Filing Volume 9, Ex. 10-B, p. 31.

[828] I&E St. 3, p. 49.

information, the rates must be increased to move these customers closer to their cost to serve. After applying Mr. Kubas' suggested rate design, the York Bulk Customers will still receive a significant subsidy of $7,999,227.[829] This demonstrates the reasonableness of the I&E recommendation, as the subsidy has not been completely eliminated. Mr. Kubas does, however, recommend that this subsidy continue to be decreased in future cases.[830] I&E MB at 81-82.

c. Wastewater CSS Operations

Regarding Wastewater CSS Operations the Company provided one COSS for the CSS Operations - Zones 3, 4, and 6 which did not include a customer cost analysis.[831] The Company proposed that present rate revenue be decreased from $78,636,222 to $78,409,294, which is a decrease of $226,926 or 0.30%.[832] To achieve this reduction, the Company proposed to increase and decrease various customer charges, usage rates, and flat rates.[833] When designing rates for Wastewater CSS Operations, I&E witness Kubas' goal was to reduce the $16,007,052 subsidy the Company claims is needed to fund the CSS Operations. Mr. Kubas recommends a total increase in the CSS system of $15,744,287.[834] This recommendation reduces the CSS Operations subsidy to $35,835.[835] Under Mr. Kubas' proposal the highest average bill increase, 47.7%, goes to industrial customers.[836] As with wastewater SSS Operations, Mr. Kubas' goal for Wastewater CSS Operations was to move the relative rate of return toward 1. The rates proposed by I&E all serve to move customers closer to their cost to serve and represent reasonable increases. I&E avers that the rates proposed by Mr. Kubas are cost based, and based

829 *Id* at 53.

830 *Id*
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831 *Id* at 57.

832 PAWC Initial Filing Volume 9, Ex. 10-C, p. 1.

833 PAWC Initial Filing Volume 9, Ex. 10-C, pp. 3-38.

834 I&E St. 3, pp. 57-58, citing I&E Ex. 3, Sch. 16, column G, line 14.

835 I&E St. 3, p. 58, citing I&E Ex. 3, Sch. 1, column H, line 3.

836 *Id* at 58.

on sound, Commission approved ratemaking principles. I&E asserts that its recommended rates should therefore be adopted. I&E MB at 82-83; I&E RB at 36.

3. OCA's Position

PAWC's volumetric rate proposals should be proportionately adjusted to recover the cost of service approved by the Commission for each current Wastewater SSS and CSS Wastewater customer class, and for Wastewater SSS and CSS Wastewater residential customers, any revenue deficiency resulting from the adoption of the OCA's monthly residential customer charge recommendations.[837] OCA MB at 80.

PAWC and the OCA agree: if the Commission approves PAWC's proposal to delay the effective date for new rates for certain Wastewater rate zones, it should also adopt PAWC's proposal to impute revenues, by calculating the proof of revenues as if the customers were paying the new rates without any delay.[838] This is necessary to prevent other ratepayers from paying the cost of rate commitments that PAWC chose to make in its agreements to purchase those systems. OCA MB at 80.

4. City of Scranton's Position

The City of Scranton opposes the recommendations of I&E witness Kubas, as it is the City's understanding that his recommendations include higher rates for the City of Scranton than those originally proposed by the Company. The City notes that PAWC proposed that Scranton CSS rates remain consistent with the purchase agreement for that system. The City of Scranton agrees with this proposition and further pleads that the Commission refrain from increasing costs for the City of Scranton, especially due to the terms of the Asset Purchase Agreement. The City agrees with PAWC that if the Commission entertains any increase in

[837] OCA St. 4, p. 47.

[838] PAWC St. 4R, p. 12; OCA St. 4, pp. 48-49.

wastewater rates for Scranton CSS rate payers, that the increase should be just and reasonable and consistent with the concept of gradualism to avoid rate shock.

5. ALJs' Recommendation

PAWC provides wastewater service under a variety of different rate schedules in a variety of different rate zones. "Sanitary Sewer Systems" ("SSS") includes the following rate zones: Rate Zone 1 – PAWC Statewide; Rate Zone 2 – New Cumberland; Rate Zone 5 – Valley; Rate Zone 7 – York; Rate Zone 8 – Foster Township; and Rate Zone 9 – Royersford. "Combined Sewer Systems" ("CSS") includes the following rate zones: Rate Zone 3 – Scranton; Rate Zone 4 – Kane; and Rate Zone 6 – McKeesport.[839] As discussed previously, the Company has proposed to reallocate a portion of the wastewater revenue requirement calculated in this case to its water service customers under the provisions of Act 11.[840]

The Company is proposing to move all CSS customers to a single tariff with a single set of rates, with the exception of the Scranton system, and is also proposing to move New Cumberland and Valley to SSS Wastewater Rate Zone 1. The Company is also proposing to set fixed charges to be the same for all wastewater customers, unless prohibited by prior agreement, and move rates in the SSS group for the York and Royersford system closer to Zone 1 Rates.[841]

The Company's proposal for wastewater service rate design and tariff consolidation is, in pertinent part, as follows:

- PAWC is proposing to set all residential service charges at $20 per month and all non-residential service charges at $50 per month;

- No changes are proposed for Scranton rates except for the roll-in of the DSIC mechanism;

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839 PAWC St. 10, pp. 36-37.

840 *Id* at 40.

841 *Id* at 41.

- To merge rates for Kane and McKeesport customers into a single rate design that results in residential bills at average usage levels of approximately $110 per customer. Volumetric rates for non-residential customers for Kane and McKeesport are set at $1.90 per hundred gallons. Port Vue rates are proposed to be merged into McKeesport/Kane rates, with no increase proposed for McKeesport bulk customers;

- SSS volumetric rates are increased to a level that brings residential bills for average levels of usage for Zone 1 customer to approximately $100 per month, with proportional increases to non-residential volumetric rates. No increases are proposed for large industrial customers;

- To phase out the allowance for the first 2,000 gallons in York rates by setting the volumetric rates for York at $0.75 per hundred gallons for the first 2,000 gallons for residential customers, and $0.40 per gallon for non-residential customers. Volumetric rates above 2,000 gallons are set equal to Zone 1 rates; and

- Royersford volumetric rates are increased to a level that results in residential bills for average usage at approximately $65 per month, which is a $15 increase. Non-residential volumetric rates in Royersford are increased to $0.75 per hundred gallons.[842]

Lastly, the Company proposed to change the way it determines the volumetric component of bills for residential customers from the current method of billing based on total metered usage for a month to the winter averaging methodology.[843]

We agree with the OCA that PAWC's volumetric rate proposals should be proportionately adjusted to recover the cost of service approved by the Commission for each current Wastewater SSS and CSS Wastewater customer class. As explained by OCA witness Mierzwa, in pertinent part:

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842 *Id* at 41-42.

843 *Id* at 42.

> I agree with PAWC's proposal to phase out the allowance for York customers. The remainder of PAWC's volumetric rate proposals are based on the Company-proposed assignment of a significant 27% of the wastewater revenue requirement to water service customers. Under this proposed assignment, SSS and CSS wastewater customers receive no rate increase and, in fact, a slight decrease in rates. As previously explained . . . this is unreasonable. I recommend that PAWC's volumetric proposals be proportionately adjusted to recover the cost of service approved by the Commission for each current SSS and CSS customer class, and for SSS and CSS Residential customers.[844]

I&E proposed increasing rates to York Bulk customers by approximately 50% on the basis that these Company's argument that these customers have competitive alternatives is speculative at best. However, as explained by PAWC witness Aiton:

> The York Bulk customers are in close geographic proximity – which means that they could enter into (and have in some circumstances already entered into) intermunicipal flow agreements to transmit wastewater flow between themselves and to other surrounding municipalities with existing treatment capacity, instead of sending their flows to the York WWTP. The York Bulk customers are sophisticated, knowledgeable, and experienced. Therefore, they could divert flows to alternative treatment providers or develop a new treatment system.[845]

Additionally, Mr. Aiton advised:

> In the proceeding for approval of PAWC's acquisition of the York wastewater system at Docket Nos. A-2021-3024681 et al. ("Acquisition Proceeding"), the York Bulk Customers opposed the transaction and testified that [they] were planning for a competitive alternative to bulk treatment service from PAWC. As witnesses for the York Bulk Customers explained in their testimony in the Acquisition Proceeding and discussed in detail by Company witness Bernard D. Grandusky in Statement No. 7-R submitted on August 19, 2022 in PAWC's 2022 rate case, unless PAWC entered into the Bulk Agreements on the terms and rates set forth in those contracts, each of the York Bulk

844 OCA St. 4 at 48
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845 PAWC St. 3, pp. 66-67.

> Customers would leave the York system after PAWC's acquisition and pursue alternative treatment.[846]

Based on the testimony of Mr. Aiton, we find that it is more than speculative to conclude that York Bulk customers do not have competitive alternatives. Accordingly, we recommend that the Commission reject I&E's proposed rate increase for the York Bulk Customers. However, we agree with I&E witness Mr. Kubas' recommendation that the Company begin to charge St. Lawrence a monthly customer charge. I&E MB at 80-81. This change will ensure that St. Lawrence Borough contributes appropriate revenues to fund PAWC's direct and indirect customer costs for service. However, we will recommend that PAWC charge St. Lawrence the same service charge per month that the Commission approves for other WW SSS Rate Zone 1 bulk metered usage customers, including Caln, West Brandywine, and the VA Medical Center, that have special rates for bulk metered usage.

I. Tariff Structure – Winter Averaging Proposal

1. PAWC's Position

Winter averaging is a method for determining volumetric components of wastewater bills that attempts to separate metered water usage that is likely to go through the wastewater system from water usage that is used for outdoor purposes in the summertime.[847] Under winter averaging, a customer's bill in the wintertime is determined by actual metered water usage for the month, and in the summertime the customer's bill is determined by the lesser of the actual metered water usage for the month or the average water consumption for that customer in the winter months.[848] PAWC offers the following explanation of winter averaging. If a customer's metered water use is 4,000 gallons in the winter period, the customer is billed for 4,000 gallons of water usage on their wastewater bill.[849] In the summer period, if a customer's

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846 *Id* at 67.

847 PAWC St. 10 at 43.

848 *Id*.

849 *Id*.

metered water use is 6,000 gallons and their average winter usage over the previous winter months was 5,000 gallons per month, then the customer will only be billed for 5,000 gallons on their wastewater bill.[850] If that customer's metered usage was 3,000 gallons and their average winter usage over the previous winter months was 5,000 gallons per month, the customer would be billed for 3,000 gallons of usage on their wastewater bill.[851] PAWC proposed this winter averaging methodology to more closely align wastewater bills in the summertime with cost-causation rate design principles.[852] PAWC notes that under the current rate structure, customers are charged for wastewater service in the summertime based on metered water usage that is not actually going through the wastewater system.[853] PAWC avers that this winter averaging methodology remedies that inconsistency in the Company's wastewater rate design and better aligns customer usage with the amounts billed.[854]

The Company disagrees with I&E witness Kubas' recommendation to only approve winter averaging as a temporary program.[855] Doing so would require the Company to implement "shadow billing," which would be unnecessary and impractical for the reasons described by PAWC witness Rea.[856] The Commission should also find that the OCA's and CAUSE-PA's opposition is unwarranted.[857] OCA witness Mierzwa contends that seasonal usage can be explained by "a few extra showers and clothes washing loads," ignoring PAWC's modeling that there are statistically significant changes in water consumption tied to changes in weather during the summer period.[858] PAWC disagrees with the views of OCA witness Colton

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850 *Id*.

851 *Id*.

852 *Id*. at 44

853 *Id*.

854 *Id*. at 45.

855 *See* I&E St. 3, p. 55.

856 *See* PAWC St. 10-R, p. 54; Tr. 2010-11.

857 *See* OCA St. 4, p. 43; OCA St. 5, pp. 97-109; CAUSE-PA St. 1, pp. 13-14.

858 PAWC St. 10-R, p. 54.

and CAUSE-PA witness Geller that winter averaging will penalize low-income customers.[859] Winter averaging will benefit all customers and is reflective of cost-causation.[860] PAWC MB at 68.

2. I&E's Position

Initially, I&E proposed two conditions related to the winter averaging proposal set forth by PAWC. First, that none of the revenue shortfall from this proposal be recovered from other wastewater customers or water customers as the program was designed to help only residential wastewater customers, who should, thereby, be the ones to fund the program and any resulting shortfall should be recovered from residential wastewater rates. Second, that the Commission determine that the proposal is approved initially as a temporary program to permit the resulting revenue impacts to be evaluated in the first rate case following its implementation.[861] I&E witness Kubas explained that new proposals such as these reduce revenue, and therefore, should not be approved in perpetuity.[862] The outcome of these types of proposals should be reviewed and studied in the next base rate case following their implementation. At that point, the Commission and the parties would have sufficient information to make a determination as to whether the program should be continued as is, modified, or ended in its entirety.[863] I&E MB at 84.

While PAWC witness Rea notes that he agrees that revenue differences resulting from this program should be recovered from other wastewater customers and explains that this is, in fact, the way the program is set up, he disagrees with Mr. Kubas that the program should

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859 OCA St. 5, pp. 97-109; CAUSE-PA St. 1, pp. 13-14.

860 PAWC St. 10-R, p. 55.

861 I&E St. 3, p. 55.

862 I&E St. 3, p. 55.

863 I&E St. 3, p. 56.

only be approved as a temporary program.[864] Mr. Rea states that it would not be practical to approve this program as temporary with the results being examined in a future base rate case because to do so would require the Company engage in "shadow billing."[865] Shadow billing would involve tracking the customer's bills as if this proposal did not exist to see what those bills would have been in order to provide the necessary comparison. I&E MB at 84.

I&E recommended that the program not be approved, noting that it is important that when approving these types of programs, the Commission is afforded the opportunity to see if the program is causing more harm than good to ratepayers. In this instance, the only issue with approving this program as temporary appears to be that PAWC does not want to track multiple sets of numbers. As a result, Mr. Kubas recommends the program be denied.[866] I&E MB at 85.

I&E references the testimony of OCA witness Colton who notes that low-income customer are less likely to have substantial outdoor summer consumption and because of this, those households are less likely to have their summer wastewater bills capped at a lower level than those bills have historically been.[867] As explained by OCA witness Colton, these are the ratepayers that "will fall within that population of customers who are called upon to bear the burden of foregone revenue … with little opportunity to be the recipient of any reduced bills."[868] CAUSE-PA witness Geller expressed a similar concern. After considering the arguments presented by OCA and CAUSE-PA regarding the disproportionate adverse impact on low-income customers, combined with the Company's refusal to adopt the program as temporary, I&E witness Kubas recommends the winter averaging program be rejected in its entirety.[869] I&E MB at 85-86.

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864 PAWC St. 10-R, p. 54.

865 PAWC St. 10-R, p. 54.

866 I&E St. 3-SR, p. 38.

867 OCA St. 5, p. 105.

868 OCA St. 5, p. 105.

869 I&E St. 3-SR, pp. 38-39.

3. OCA's Position

PAWC's proposal to change the way it determines the volumetric component of bills for Residential Wastewater customers should be rejected for the reasons set forth in the testimony of OCA witnesses Mierzwa and Colton, CAUSE-PA witness Geller, and I&E witness Kubas.[870] Their collective testimony demonstrates that the proposal put forth by PAWC would disproportionately harm low-income customers. OCA MB at 80-81.

PAWC witness Rea concedes that the beneficiaries of the Company's winter averaging proposal are likely to be higher income customers because it is these customers that are more likely to be (1) absent from their homes during the winter, (2) residents of single family homes with substantial outdoor water consumption, both factors making them more likely to have seasonal water usage in the summertime that would no longer be billed for Wastewater service.[871] Conversely, the record shows that customers who will pay the increase in charges are disproportionately likely to be low-income.[872] OCA MB at 81.

While unquestionably disadvantaging low-income customers, PAWC has failed to demonstrate that its proposed methodology for recognizing outdoor usage would reasonably achieve its stated purpose. PAWC's data shows there is not a substantial variability in residential water bills (and thus in residential consumption) between the three "winter months" (as defined by PAWC) and the remaining nine "non-winter" months.[873] The three-month average median bill ($62.06) did not substantially differ from the average of the median bills for the remaining nine months ($63.49). In fact, the January 2023 median residential bill ($67.43) was identical to the

[870] OCA St. 4, pp. 40-44; OCA St. 4SR, pp. 19-20; OCA St. 5, pp. 97-109; OCA St. 5SR, pp. 9-11; CAUSE-PA St. 1, pp. 13-14; I&E St. 3SR, pp. 38-39.

[871] PAWC St. 10R, p. 55; OCA St. 5SR, pp. 9-10; OCA St. 5, pp. 105-06; CAUSE-PA St. 1, pp. 13-14.

[872] OCA St. 5, pp. 101-09; OCA St. 5SR, pp. 9-11; I&E St. 3, pp. 38-39.

[873] OCA St. 5, p. 97.

median residential bills in both June 2023 and July 2022 and higher than the median residential bills in each of the other seven non-winter months.[874] OCA MB at 81.

Likewise, OCA witness Mierzwa's analysis of PAWC's data for average monthly water usage showed that for Residential customers the difference between the winter average period usage and usage during the remaining months is de minimis, and for the last two years ranged from 100 to 173 gallons per month. In other words, a difference that could be made up by a few extra showers and loads of laundry and not necessarily by outdoor water usage.[875] Another discrepancy is that some Residential customers have higher usage in the summer months not due to outdoor usage but because they are absent from their homes in the winter.[876] In this scenario, PAWC's winter averaging proposal would understate summer months usage that flows through the sewer system. PAWC witness Rea does not dispute this effect.[877] OCA MB at 81-82.

Under the methodology proposed by PAWC, any benefits are outweighed by the disproportionate harm to low-income customers and the proposal should be rejected. If adopted, despite the reasoned objections by the OCA, CAUSE-PA and I&E witnesses, the volumetric charges should be made subject to the same low-income discounts to which other PAWC volumetric charges are subject.[878] OCA MB at 82.

4. CAUSE-PA's Position

Under PAWC's proposed winter averaging method, a customer's wastewater bill in the winter averaging months (January-March) would be determined by actual metered water

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874 *Id* at 98-99.

875 *See* OCA St. 4, pp. 43-44 (Table 6).

876 OCA St. 4, pp. 43-44; OCA St. 5, pp. 99-101.

877 PAWC St. 10R, p. 55.

878 OCA St. 5, p. 109.

usage for the month.[879] In non-winter months, a customer's wastewater bill would be based on the lesser of their actual monthly metered water usage or the average water usage for that customer in the winter months.[880] PAWC's expert acknowledged that the winter averaging method, if approved, would increase volumetric wastewater rates for all customers.[881] CAUSE-PA MB at 25.

CAUSE-PA avers that PAWC's proposed winter averaging methodology is inequitable and contrary to the public interest, as it improperly favors customers that reside in larger properties and have greater levels of discretionary water usage in the non-winter months – to the detriment of customers that reside in smaller homes and apartments that do not have the same discretionary water use.[882] The methodology would also favor customers with summer vacation homes, which may have very low average usage in the winter months. In short, PAWC's proposed winter methodology would shift costs from higher income customers with greater discretionary usage onto lower income customers that are already struggling to afford basic services to their home. It would also deter conservation, making it more affordable for some households to maintain swimming pools – at the expense of other families' ability to maintain drinking water. CAUSE-PA MB at 25-26.

Notably, the assumptions built into PAWC's winter averaging methodology are flawed. First, PAWC's methodology assumes outdoor water usage does not impact wastewater system costs, without consideration of whether a given system is combined stormwater and wastewater. Moreover, PAWC's methodology assumes that increased summer water usage is all attributable to outdoor water usage, without any individualized determination of whether a customer's average winter usage is reflective of their average summer usage.[883] This means that customers with a vacation home used primarily in the summer months, families with children

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879 PAWC St. 10, pp. 43, 44: 3-6.

880 PAWC St. 10, p. 43.

881 PAWC St. 10, p. 45: 3-10.

882 CAUSE-PA St. 1, p. 13: 5-15.

883 CAUSE-PA St. 1, p. 13.

returning from college for summer vacation, and other households with higher summer usage would be charged the lower winter rates all year long. CAUSE-PA MB at 26.

PAWC's proposed winter averaging methodology is unreasonable and contrary to the public interest because it is premised on faulty assumptions about summer usage and it improperly shifts the revenue burden from customers who reside in single-family homes with greater discretionary water usage and/or who own summer vacation homes (most often higher income customers) onto customers that live in smaller properties or apartments with little discretionary water usage (most often lower income customers).[884] For these reasons, CAUSE-PA recommends that the Commission reject PAWC's proposed winter averaging methodology. CAUSE-PA MB at 27.

5. ALJs' Recommendation

We agree with I&E, OCA, and CAUSE-PA that PAWC's Winter Averaging Proposal should be rejected. We agree with the OCA that the Company has failed to show that its proposed methodology for recognizing outdoor wastewater usage would reasonably achieve its stated purpose. Moreover, both OCA and CAUSE-PA raised legitimate concerns that PAWC's Winter Averaging Proposal might have a disproportionate adverse impact on low-income customers.

I&E attempted to address these concerns by suggesting that this program be approved on a temporary basis until the Company's next base rate case so that interested parties, and the Commission, would have an opportunity to evaluate whether this program achieved its stated goals, or if it did have an adverse impact on low-income customers. The Company rejected this suggestion because it would be required to track the information needed for evaluation during the next base rate case. The Company's unwillingness to take such measures for future evaluation of the program does not instill confidence in the proposal.

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[884] CAUSE-PA St. 1, p. 13: 16 – 14: 7.

Accordingly, we recommend that the Commission reject PAWC's Winter Averaging Proposal.

J. Scale Back of Rates

1. PAWC's Position

If the Commission approves a revenue requirement that is less than that proposed by the Company, PAWC proposes to proportionally reduce the water and wastewater revenue requirements and the proposed amount of reallocation from wastewater to water under Act 11.[885] I&E, OCA, OSBA, and PAWLUG submitted alternative scale back proposals.[886] The Company opposes the parties' recommendation that any reductions in revenue requirements for wastewater service be applied first to the amount being allocated to water customers pursuant to Act 11. This would effectively result in a revenue requirement reduction to water service.[887] Under these proposals, wastewater rates would only be reduced in the event that PAWC's wastewater revenue requirement is reduced by a greater amount than its proposed Act 11 allocation amount.[888] If the Commission approves a scale back, the wastewater revenue requirement should be reduced by the same proportion as the Company's water revenue requirement.[889] PAWC MB at 68-69; PAWC RB at 58.

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885 PAWC St. 10, pp. 16-17; PAWC St. 10-R, p. 37.

886 *See* I&E St. 4, pp. 41-44; OCA St. 4, p. 30; OSBA St. 1, pp. 36-37; PAWLUG St. 1, pp. 29-30.

887 PAWC St. 10-R, pp. 40-41.

888 *Id.*

889 PAWC St. 10, pp. 45-46; PAWC St. 10-R, p. 37.

2. I&E's Position

a. Water Scale Back of Rates

If the Commission grants less than the Company's requested increase and adopts the I&E customer charges, the Company's proposed rates would be reduced, or scaled back, to produce the revenue requirement allowed by the Commission. The first step that must be completed in any scale back is to determine the revenue requirements and scale backs of the wastewater operations. The wastewater operations revenue requirement must be set first because that will determine the amount of revenue requirement that must be allocated to Water Operations under Act 11. Once the wastewater to water allocation is determined, then the full Water Operations revenue requirement will be known, and those rates can be scaled back. I&E recommends that any scale back be netted against the subsidy the Commission determines for the wastewater operations. I&E MB at 86-87.

If the Commission grants an increase less than the fully requested increase for Water Operations, I&E witness Cline recommends that the usage rates and customer charges be decreased to produce the revenue level the Commission approves. Because the $20.00 per month customer charge is based upon the direct customer cost, any reduction in any of the ratemaking inputs by the Commission would reduce the inputs used in the customer cost analysis that was used to determine the $20.00 per month customer charge. The Commission recently reaffirmed its commitment to including the customer charge in the scale back of rates in the *PGW 2023* base rate case.[890] I&E MB at 87.

Additionally, I&E recommends that the usage rates for the Rate Zone 2 residential and commercial and the Rate Zone 4 commercial rate classes not be scaled back as long as they remain lower than the usage rates in Rate Zone 1. I&E MB at 87.

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[890] *Pa. Pub. Util. Comm'n. v. Phila. Gas Works,* Docket No. R-2023-3037933(Opinion and Order entered Nov. 9, 2023).

b. Wastewater Scale Back of Rates

i. SSS Operations

If the Commission grants less than the full increase for the SSS Operations, I&E recommends the following steps to reduce revenue and rates for SSS Operations customers. First, any subsidy from Water customers should be eliminated. That way, water customers will not subsidize any of the SSS Operations. I&E MB at 87.

The scale back should start with the Zone 1, 2, and 5 Residential usage rate, reducing it to achieve the desired level of increase together with a reduction in the Non-Residential usage rate proportional to the percentage increase that I&E proposed for each rate under the full increase. This will keep the total increase in the Residential class and Non-Residential class relatively proportional. The Special Commercial rate of $2.350 per hundred gallons for Cleveland-Cliffs and Victory Brewing should be similarly scaled back based upon the 67.9% increase shown on I&E Ex. 3, Sch. 3, p. 1, line 11. The Special Commercial flat monthly charges shown on I&E Ex. 3, Sch. 3, p. 1, lines 13-16 and line 18 should also be similarly scaled back. The Non-Residential flat rate of $150.00 per month should not be scaled back since it is below the average bill of a Non-Residential customer. The special customer charge of $465.50 per month should not be scaled back because the increase is only 10.0%.[891] The usage rates for Caln, West Brandywine, the VA, and St. Lawrence should not be scaled back because the rates are below the corresponding usage rate in Zone 1.[892] The customer charge and usage rate paid by Rainbow Washhouse where the usage rate that I&E proposes is below the present Commercial usage rate, should not be scaled back.[893] I&E MB at 87-88.

In Zones 7 and 9, the general usage rates should not be scaled back since they are below the Zone 1 usage rate. The Zone 8 Residential and Commercial flat charge can be made

[891] I&E Ex. 3, Sch. 3, p. 1, line 19.

[892] I&E Ex. 3, Sch. 3, p. 1, lines 20-21.

[893] I&E Ex. 3, Sch. 3, lines 35-38.

the same as the corresponding Zone 1 flat charge. However, the Butler Township flat rate of $40.00 per month and the Zone 9 flat rate of $75.00 should not be scaled back because they are below the $132.00 per month flat rate proposed by I&E in Zone 1. The Bulk rates for the York Bulk customers and the Bulk rates in Royersford should not be scaled back since the revenue received from these classes is so far below the cost to provide service to these classes.[894] I&E MB at 88-89.

ii. CSS Operations

Regarding CSS operations, I&E recommends that the customer charges not be scaled back. In Zone 4, the charge decreased, thus no further decrease is appropriate. I&E MB at 89.

Regarding Residential flat rate customers, I&E witness Kubas recommends that the Residential flat rate be adjusted downward based upon the final average Residential Zone 1 bill established when rates are scaled back.[895, 896] The scale back should start with the Zone 3, 4, and 6 Residential, reducing the usage rate to achieve the desired level of increase together with a reduction in the Non-Residential usage rate proportional to the percentage increase that Witness Kubas proposed for each rate under the full increase. This will keep the total increase in the Residential class and No-Residential class relatively proportional. Finally, the Bulk rates in Zone 6 should not be scaled back since they are not being increased.[897] I&E MB at 89.

3. OCA's Position

For water service, the OCA recommends the revenue increases the OCA proposed for each class at PAWC's claimed revenue requirement based on the OCA's CCOS study, i.e.

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894 I&E Ex. 3, Sch. 3, p. 2, line 1-21.

895 I&E Ex. 3, Sch. 3, p. 1, lines 4-5.

896 I&E St. 3-SR, p. 27.

897 I&E Ex. 3, Sch. 17, lines 22-24.

what is shown in OCA Table 4-SR, should be scaled back proportionately to reflect the actual water revenue increase (including revenues reallocated to water service under Act 11) authorized by the Commission in this proceeding.[898] For the direct cost of Wastewater service, the OCA accepted PAWC's proposed CCOS study and recommends that any scale back to the revenue increases for each class should be made consistent with PAWC's allocation proposal.[899] OCA MB at 82.

As discussed previously, the amount reallocated under Act 11 should be substantially reduced from what PAWC proposed.[900] The OCA does not recommend that any reduction in the Wastewater requirement should be applied first to the Act 11 reallocation, however, as that may not provide an adequate level of relief to Wastewater customers.[901] While the specific amount of revenues shifted under Act 11 should be determined by the Commission based on the authorized Wastewater revenue requirement, the OCA recommends that an Act 11 reallocation that results in comparable percentage increases for Water and Wastewater customers would be in the public interest.[902] OCA MB at 82-83.

4. OSBA's Position

In the likely event that the Commission approves a lower revenue increase than that requested by PAWC, the OSBA recommends that the decrease be applied primarily to water rates. If the Commission approves a lower revenue requirement increase associated with PAWC's wastewater systems than proposed by PAWC, the incremental revenue requirement reduction should not reduce PAWC's proposed wastewater rates, so long as the cost-based wastewater revenue requirement is greater than PAWC's proposed wastewater rates. This means

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[898] OCA St. 4SR, pp. 16-17 and Table 4-SR.

[899] *Id* at 17.

[900] *See also* OCA St. 4SR, pp. 17-18; OCA St. 4, pp. 25-27.

[901] OCA St. 4SR, pp. 17-18, 35.

[902] *Id*.

that a lower revenue requirement will reduce Act 11 revenues and PAWC's proposed water rates generally. [903] OSBA MB at 21-22.

Regarding water rates at a lower revenue requirement, the OSBA recommends scaling-back the revenue allocation to each customer class in proportion to each class's share of the total non-Act 11 revenues shown in Mr. Higgins' Schedule KCH-12, page 1. OSBA also recommends that each water class recover its allocated share of any approved Act 11 subsidy. The reasoning for this recommendation is straight-forward: it fixes the admitted errors in PAWC's originally-filed Water COSS; it employs more reasonable and accurate maximum day and maximum hour allocators; and it will recover the Act 11 subsidy allocated to each water class. OSBA MB at 22.

5. PAWLUG's Position

PAWLUG avers that the Commission should accept PAWC's revised COSS with the sole exception of modifying the Company's proposed maximum hour demand ratio for the Residential customer class. PAWC's proposal to allocate $71.1 million of the wastewater revenue requirement to water customers pursuant to Act 11 should be modified to adopt witness LaConte's revised allocation method and apply any approved scaleback of the wastewater revenue requirement to offset the total $71.1 million allocation amount. PAWLUG's proposal to increase the Industrial customer charge consistent with. LaConte's recommendation should be approved. PAWLUG MB at 27.

Lastly, to the extent the Commission approves a lower water revenue requirement than as proposed by PAWC, the Commission should implement a proportional scale back. For the portion attributable to Industrial and Municipal customers, the Commission should scale back only the volumetric rates for PAWC's Industrial and Municipal customer classes.[904] This is appropriate for both classes due to the high proportion of total class revenues recovered through

[903] OSBA St. 1, pp. 36-37.

[904] PAWLUG St. 1, p. 29.

the respective volumetric rates.[905] While applying any scaleback to volumetric rates for both the Industrial and Municipal classes remains appropriate in conjunction with PAWLUG's proposed increase to the Industrial customer charge, it becomes particularly necessary in the event the Commission denies PAWLUG's proposal to increase the Industrial customer charge. PAWLUG MB at 27-28.

6. Victory Brewing’s Position

In the event that the Commission approves a revenue requirement that is less than the Company’s request, PAWC argued that the proposed water rates, wastewater rates, and reallocation from wastewater to water under Act 11, should all be scaled back proportionally so that the same relative percentages be maintained.[906] Victory Brewing accepts the scale back proposal presented by PAWC. Victory Brewing MB at 8.

7. ALJs’ Recommendation

We recommend that the Commission adopt PAWC’s position on the scale back of rates. As explained by PAWC witness Rea:

> The Company’s position for the scale back of rates is that in the event that the Commission approves a revenue requirement that is less than that proposed by the Company, the Company proposes to reduce the revenue requirements for water service and wastewater service, and the proposed amount of reallocation from wastewater to water under Act 11 to be proportional so that the same relative percentages to the total of water service revenue requirement, wastewater service revenue requirement, and Act 11 reallocation amounts be maintained at proposed levels. The Company believes that the levels of rates for water service and wastewater service relative to each other should be maintained as proposed in the event that a lower revenue requirement is approved by the Commission in this case.[907]

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905 *Id* at 30.

906 PAWC St. 10, pp. 45-46.

907 PAWC St. 10-R, p. 37.

Adopting the Company's proposal to proportionately reduce the water and wastewater revenue requirements and the proposed amount of reallocation from wastewater to water under Act 11 would be an equitable scaleback while still allowing for some rate relief for wastewater customers under Act 11.

XII. ALTERNATIVE RATEMAKING REQUESTS

A. Revenue Decoupling Mechanism

1. PAWC's Position

PAWC's proposed revenue decoupling mechanism ("RDM") is an alternative rate design mechanism that couples traditional rate design with elements of Straight Fixed Variable ("SFV") Pricing. This mechanism couples the benefits of traditional rate design, including cost causation, affordability, gradualism, and efficiency of use, with the increased revenue stability available to the Company through an SFV rate design. This mechanism compares the revenues collected under the actual Commission-approved rates customers pay with the revenues that would have been collected through an SFV rate design on a forward-looking basis and accrues the differences, which are either credited to customers or collected from customers at a later time. The proposed RDM identifies three cost components as the basis for revenues that would be collected through the SFV rate design that form the basis of the revenue comparisons going forward. These three cost components are: a Volumetric Charge, which is a charge in dollars per hundred gallons that applies to all water volumes sold to customers; a Residential Fixed Charge, which is a flat dollar charge per month that applies to all residential customers; and a Non-Residential Fixed Charge, which is a flat dollar amount that applies to all non-residential customers. The RDM is an alternative rate design mechanism whose purpose is to more reliably recover the revenue requirement and associated fixed costs approved by the Commission.[908]

[908] PAWC St. 10, pp 89-90; PAWC St. 10-R, pp 64-65.

Decoupling mechanisms such as the RDM are explicitly authorized by Section 1330(b)(2).[909] Recovery of fixed costs is a concern for PAWC as approximately 81% of PAWC's water and wastewater revenues are collected under volumetric rates while over 95% of its costs are fixed.[910] PAWC's ability to recover Commission-approved costs, therefore, will be diminished if water sales are less than anticipated. PAWC MB at 69.

PAWC's continued focused investment on non-revenue producing investments for the benefit of customers, coupled with variability in usage, means that revenues remain largely outside of PAWC's control.[911] The RDM will compare revenues collected under Commission-approved rates with revenues that would have been collected through Straight Fixed Variable SFV Pricing. As noted, if actual revenues are higher than would have been collected under the RDM formula, the difference is credited to customers in the following year. If actual revenues are lower than would have been collected under the RDM formula, the difference will be collected from customers in the following year. PAWC MB at 70.

PAWC maintains that the RDM does not shift risk either to or away from customers; both PAWC and customers continue to share revenue risk, as the RDM can result in either a credit or surcharge to customers depending on PAWC's actual results compared to the SFV price components.[912] Further, the RDM does not guarantee recovery of PAWC's authorized return. PAWC also avers that subjecting the RDM to a cap would decrease the utility of the RDM and undermine the revenue requirement authorized by the Commission in this proceeding, as the express purpose of the RDM is to collect the revenues authorized in this proceeding reflective of PAWC's cost of service.[913] PAWC MB at 70-71.

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[909] 66 Pa.C.S. § 1330(b).

[910] PAWC St. 10, p. 86.

[911] PAWC St. 1, p. 25.

[912] PAWC St. 10-R, pp. 73-74.

[913] PAWC St. 10-R, p. 77.

While recognizing that there are other rate recommendations available to PAWC such as a declining use adjustment, the use of the FPFTY and the DSIC,[914] PAWC avers that none of these mechanisms address the specific issue that the RDM is intended to solve, which is revenue volatility resulting from declining consumption and other events that impact forecasted usage.[915] PAWC MB at 71.

PAWC explains that any credits or surcharges generated as a result of application of the RDM are not expected to affect affordability, and any credits or surcharges will also be subject to PAWC's BDP, which will minimize any effects on low-income customers.[916] In addition, PAWC maintains that there is no evidence to suggest that declines in usage are more concentrated in higher-income households than lower-income households. While changes in revenue arising from weather can be more attributable to higher income customers, general declines in consumption are attributable to all residential customers.[917] The RDM will also not discourage conservation as customers that undertake conservation efforts will still be rewarded with a lower bill regardless of the actual rates in effect.[918] PAWC contends that the bill savings from conservation will outweigh the estimated surcharge resulting from implementation of the RDM. Moreover, application of the RDM removes the "throughput incentive" associated with the volumetric components of PAWC's rate structure, which removes any financial disincentive to promote end-use efficiency.[919] PAWC MB at 71-72.

PAWC disagrees that the RDM should be limited to residential customers, or that it should exclude the Industrial class.[920] The purpose of the RDM is to address revenue volatility. Revenue volatility is not constrained to the residential class. All non-residential

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914 *See* I&E St. 4, p. 15; OCA St. 1, pp. 46-47; Cleveland-Cliffs St. 1, p. 15.

915 PAWC St. 10-R, pp. 75-76.

916 PAWC St. 10-R, p. 74.

917 *Id* at 74-75.

918 *Id* at 72.

919 PAWC St. 1, p. 25.

920 *See* OSBA St. 1, p. 39; Cleveland-Cliffs St. 1, p. 15-16.

customers are susceptible to revenue volatility including industrial and municipal customers.[921] PAWC also does not expect the RDM to negatively impact cross-subsidization of costs between customer classes,[922] since any RDM credit or surcharge will be minor compared to the overall level of volumetric rates approved in the proceeding.[923] PAWC MB at 72.

PAWC also disagrees with parties that criticized the RDM due to alleged complexity or that it would lead to rate instability and rate confusion. The primary purpose of the RDM is to reduce instability. Application of the RDM will reduce volatility in rates resulting from unexpected usage, and will "smooth out" revenues over the longer term for the benefit of customers and PAWC.[924] In addition, no party has shown that the RDM will be more confusing to customers than any of the other riders or credits that are regularly approved by the Commission.[925] Furthermore, PAWC disagrees with contentions that the RDM does not satisfy the fourteen factors of the Commission's alternative ratemaking policy statement.[926] PAWC avers that it provided a detailed response as to how the RDM addresses each of the fourteen factors that the Commission may consider and, when taken together, those detailed responses support the approval of the RDM.[927] PAWC MB at 72-73.

Additionally, PAWC disagrees with arguments that low-income customers will be harmed. These arguments are predicated on the unsupported assumption that usage will decrease due to the widespread adoption of water efficient appliances or other efforts to increase efficiency, which are only within reach of higher-income customers. PAWC counters that changes in revenue resulting from consumption arise from all customers, not just higher-income

921 PAWC Sts. 10-R, p. 70 & 10-SR, p. 2.; Tr. 2008-09.

922 PAWLUG St. 1, pp. 17-18.

923 PAWC St. 10-R, pp. 76-77.

924 *Id* at 73.

925 *Id.*

926 52 Pa. Code § 69.3302.

927 PAWC St. 10, p. 101; PAWC St. 10-R, pp. 70-71; PAWC Ex. CBR-10.

customers.[928] Additionally, efficiencies achieved through appliance replacement affect all customers, not just higher income customers.[929] Therefore, low-income customers would not be disadvantaged, and the RDM will be applied to customer bills after the BDP discount has been applied, which, in the event there is an RDM charge, will result in a reduced RDM charge compared to the RDM absent the BDP.[930] Low-income customers would also enjoy the benefit of a credit in the event of over-recovery by the Company. PAWC RB at 61.

2. I&E's Position

The proposed RDM is an alternative rate design mechanism whose purpose is to more reliably recover the revenue requirement and associated fixed costs approved by the Commission in this case. In other words, the Company is proposing to stabilize its revenue level received from customers by charging or crediting the difference between the revenue requirement and fixed cost authorized in this case and actual revenues to customers in the subsequent year.[931]

I&E does not agree that the Company has established a need for revenue stabilization, especially when it is also simultaneously proposing a declining usage adjustment in this case. The proposed RDM will devalue conservation efforts undertaken by customers that can afford efficiency measures and harm customers who cannot afford these measures by assessing an additional charge to all customers. Furthermore, the proposal does not achieve the policy goals supported based on the Commission's policy statement associated with Section 1330 of the Code, or the Code itself. Finally, it is likely to cause rate confusion with yet another surcharge on PAWC's customer bills. I&E MB at 94.

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[928] PAWC St. 10-R, p. 74.

[929] *Id.*

[930] *Id.* at n. 5.

[931] PAWC St. 10, pp. 86-87.

Generally, the sole way for a utility customer to reduce their bill is through conservation efforts. This is particularly true for water customers. Unlike gas and electric utilities, there is no way for a water customer to shop for a new supplier. As explained by OCA witness Mierzwa, the RDM will force these customers who take measures to reduce their water consumption to share some, or nearly all, of their bill savings with the utility.[932] I&E MB at 94.

The purpose of revenue stabilization is to remove the inherent risk of not recovering the full amount of revenue requirement allowed by the Commission due to changes in usage. However, through Act 11 and the FPFTY, the Company is permitted to build into its revenue requirement an adjustment for revenue lost due to a decline in usage that is projected to occur after rates go into effect. Between the frequent base rate cases filed by the Company, only one and a half years since the last previous filing, the FPFTY, and the DSIC, the Company has demonstrated no need for further revenue stabilization measures. I&E MB at 94.

Additionally, PAWC has not demonstrated that the RDM would even decrease the need to file base rate cases. In fact, the Company notes, "if future rate cases are driven by future investment needs and associated cost recovery, the RDM would not reduce the need for such cases."[933] The main driver of the Company's most recent four base rate cases seems to be its investment in infrastructure. Taking into account that the Company has not indicated that it will not continue to make substantial infrastructure investments, it does not appear likely that the RDM would lessen the frequency with which PAWC files base rate cases. Taking all this into account indicates that all the benefits of the RDM would flow to PAWC, while all the risk of having to return cost savings achieved through conservation would fall on PAWC's ratepayers. I&E MB at 95.

I&E avers that for the RDM to be approved, it should have some benefit to customers; however, in this case, it not only would not provide any benefit, but it may harm customers by causing them to overpay and negating any cost incentive to conserve water.

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932 OCA St. 4, p. 58.

933 PAWC Ex. CBR-10.

Customers who undertake conservation efforts will see their savings eroded and their investment payback time increased as the Company is permitted to increase rates in response to usage declines. I&E MB at 96.

I&E further avers that customers who lack the financial means to undertake conservation efforts such as low-flow toilets, low flow faucets, and the like, will be penalized by the RDM, which increases rates to address usage reductions. PAWC has specifically stated in its response to OCA 6-59 that the RDM does not account for low-income participation.[934] Therefore, there are potentially many customers whose ability to pay may be compromised as their rates increase to address conservation efforts undertaken by those more able to afford such measures, or from more low-income customers enrolling in the BDP than was originally anticipated.[935] Finally, there is no expectation it will lead to fewer base rate cases. The facts show that customers would be harmed by the proposal and all benefits will flow only to the Company; therefore, there is no demonstrated need for the RDM. I&E MB at 96.

Additionally, I&E argues that the RDM is unlikely to serve to encourage water efficiency and conservation, and is instead likely to discourage conservation as cost savings are eroded. As I&E witness Cline explained, the RDM will appear as a random surcharge or credit on the customer's bill that is completely removed from their own usage and will create confusion. Specifically, by calculating the RDM based on a total class-wide (or multiple classes in the case of non-residential customers) basis, a single customer, particularly low-usage customers, will be unable to affect whether they are assessed an additional surcharge or a credit on their bill in the subsequent year. It is the bill based on base charges where the customer can see an impact of their own conservation efforts that would encourage water efficiency and conservation. The only thing the RDM provides customers is the fear that the savings derived from conservation efforts will be lessened or eliminated, thus removing any real incentive to conserve.[936] Regarding low-income customers, Mr. Cline notes that there are potentially many

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[934] I&E Ex. 4, Sch. 5.

[935] I&E Ex. 4, Sch. 6.

[936] I&E St. 4, p. 22.

customers who cannot undertake their own cost saving measures (such as installing low-flow appliances, faucets, or toilets).[937] However, there are also those customers who do have the funds to install water saving devices in their homes. Mr. Cline explains "there are potentially many customers … whose ability to pay may be compromised as their rates increase to address conservation efforts undertaken by more affluent customers or from more low-income customers enrolling in the BDP than was originally anticipated."[938] I&E MB at 97.

Currently, the only means by which a water customer may affect a reduction to their bill is through conservation. With the frequent base rate cases and increasing rates customers are already facing, along with the potential for the RDM to erode the benefits of conservation, it would not be in the public interest for the Commission to approve this alternative rate mechanism. I&E maintains that the risk to ratepayers of seeing their conservation savings eroded is not worth the benefit of proving this type of revenue stabilization to PAWC. I&E MB at 98.

3. OCA's Position

The OCA avers that PAWC has failed to demonstrate that the RDM will "enhance the safety, security, reliability or availability of utility infrastructure."[939] The OCA further avers that PAWC has failed to demonstrate by a preponderance of evidence that the RDM is "consistent with efficient consumption of utility service."[940] The OCA notes that the RDM uses rate true-ups resulting from over- or under-recovery of revenues, and such true-ups produce after-the-fact surcharges or credits that misalign consumption decisions with actual utility costs. If sales decrease, the RDM formula will adjust rates to charge customers to make-up for the reduced recovery due to decreased sales.[941] Moreover, the RDM does not provide rate stability

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937 I&E St. 4, p. 23.

938 I&E St. 4, p. 23.

939 66 Pa.C.S. § 1330(a)(2).

940 66 Pa.C.S. § 1330(a)(2).

941 OCA St. 1, p. 47.

to customer bills because the design of the RDM uses adjustments to customers' bills to maintain revenue levels.[942] Additionally, the RDM will not be understandable to customers, especially when combined with the quarterly rate changes that occur under PAWC's DSIC, as the RDM would add another surcharge to customers' bills which would change on a monthly basis and would be unlikely to reduce the frequency of base rate or DSIC rate filings.[943] OCA MB at 84-85.

The OCA is also concerned that the RDM is monopolistic excess that will harm customers unless the Company's ROE is adjusted downward to reflect the shifting of risk from PAWC to consumers. Under the RDM, the risk of recovery of PAWC's revenue requirement due to declining consumption is shifted wholly to customers; however, PAWC has not proposed to reduce its equity return to reflect the reduction in risk associated with implementation of the RDM.[944] Moreover, PAWC's FPFTY consumption projections in this proceeding already reflect declining per-customer water usage and investors benefit from the reduction in regulatory lag associated with use of the FPFTY.[945] The RDM shifts risk from the Company, which is compensated for that risk, to customers who would be forced to bear that risk for no compensation.[946] The RDM would lower PAWC's risk profile, and the OCA believes that this lower risk would then need to be reflected in the approved ROE.[947] Accordingly, the OCA recommends that if the Commission decides to adopt the RDM, then the Commission should adopt a ROE at the lower end of the OCA's modeling range at 8.7% to reflect the commensurate decrease in risk that PAWC will experience.[948] OCA MB at 86-87.

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[942] OCA St. 1SR, p. 26; OCA St. 4, p. 59.

[943] OCA St. 4, p. 59; OCA St. 4SR, p. 22.

[944] OCA St. 4, p. 60.

[945] OCA St. 4, p. 60; OCA St. 4SR, p. 23.

[946] OCA St. 3, p. 19; OCA St. 4, p. 60; OCA St. 4SR, pp. 23-24.

[947] OCA St. 3, p. 19.

[948] OCA St. 3, p. 19.

An additional concern raised by the OCA is that the RDM would result in a transfer of costs from higher-income customers to lower-income customers because actions taken by customers to reduce water consumption are disproportionately taken by higher income households.[949] The RDM takes revenue that has historically been billed to all customers and, as more customers take steps to reduce their consumption, it reallocates those dollars to the customers (and their consumption) that remain. The customers left behind by this reallocation are disproportionately low-income customers. Thus, PAWC proposes to take those revenues that had been billed to higher income households and reallocate them to low-income households who do not have the financial capacity to make investments in water conservation measures. OCA St. 5 at 81. OCA MB at 87.

The OCA also believes that the RDM proposal does not make provision for customer arrearages in its calculation of actual revenues recovered. PAWC would be "recovering not merely revenues that have been reduced due to weather or conservation investments, but also revenues the payment of which have merely been delayed or postponed."[950] Regarding AMP, as participants enter the program their arrearages will be frozen, and with successful participation, ultimately forgiven. Once a participant's arrearages are frozen or forgiven, there will be a reduction in the actual revenues recovered element of the RDM. New BDP participants, who are expected to comprise the bulk of AMP participants, will bring substantial pre-program arrearages into the AMP. But under the RDM, those unrecovered pre-program arrearages will be recovered as lost revenues since they would be a component of any reduction in actual revenues recovered. The OCA avers that it would be inappropriate to recover these reductions through the RDM and then also recover them through a specific AMP adjustment to the revenue requirement.[951] OCA MB at 87-88.

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[949] OCA St. 5, pp. 79-80.

[950] OCA St. 5, pp. 84-85.

[951] OCA St. 5, pp. 87-88.

Lastly, and similar to I&E, the OCA argues that PAWC has failed to demonstrate that its proposal meets the fourteen factors set forth in the Commission Statement of Policy to be considered when proposing an alternative ratemaking mechanism.[952] OCA MB at 88.

4. OSBA's Position

The OSBA notes that if the Commission approves the proposed RDM, it would operate by comparing the difference between actual revenue collected and hypothetical revenue collected, which would be calculated by using a SFV rate design. If actual revenues are greater than hypothetical revenues, PAWC would credit the difference to customers in a subsequent year. If actual revenues are less than hypothetical revenues, PAWC would collect the difference from customers in a subsequent year.[953] Under this mechanism, if a larger small business, such as an industrial facility, went out of business or moved to Kentucky, the remaining small businesses would have to pick up the revenue shortfall calculated by PAWC's RDM.[954] Accordingly, the OSBA opposes the PAWC's proposed RDM, and requests that the Commission reject it. OSBA MB at 22-23.

5. CAUSE-PA's Position

CAUSE-PA is opposed to the proposed RDM, as it unreasonably prejudices and disadvantages residential customers who practice conservation to lower their monthly bills and will disproportionately impact low-income customers. CAUSE-PA MB at 30.

PAWC's argument that customers will retain some ability to reduce costs through conservation does not negate the fact that the RDM will detract from savings that may be achieved through customers' conservation efforts.[955] As proposed, the RDM improperly affects

[952] 52 Pa. Code § 69.3302(a)(1)-(14).

[953] OSBA St. 1, pp. 37-38.

[954] OSBA St. 1, p. 39.

[955] CAUSE-PA St. 1, p. 16: 1-14.

customer consumption and demand level so that customers are disincentivized from practicing conservation.[956] Of note, PAWC's proposed winter averaging methodology also disincentivizes conservation in the summer months, when water usage is highest, compounding conservation impacts of the RDM. CAUSE-PA MB at 30.

Similar to I&E and OCA, CAUSE-PA avers that the proposed RDM fails to meet the factors set forth in Section 69.3302(a).[957] CAUSE-PA maintains that PAWC failed to meet its burden to show that the alternative rate mechanism is just and reasonable. CAUSE-PA concludes that the proposed RMD would significantly and negatively disincentive customers conservation efforts and incentives to practice conservation and access efficiency programs. In addition, pursuant to Section 69.3302(a)(7) and (8),[958] the proposed RDM is particularly problematic for low-income customers who already face significant water and wastewater burdens. Low-income customers often lack funds to invest in conservation devices and upgrades.[959] CAUSE-PA asserts that these customers should not be hampered in their ability to practice conservation and achieve resulting bill savings by imposing the proposed RDM.[960] CAUSE-PA MB at 30.

CAUSE-PA further argues that PAWC's proposed RDM does not contain adequate consumer protections, a factor for consideration pursuant to Section 69.3302(a)(12).[961] The proposed RDM is designed to apply to both water and wastewater services[962] – and to all customers in the residential, commercial, industrial, municipal, and sales for resale classes

956 CAUSE-PA St. 1, p. 16: 1-14.

957 52 Pa. Code § 69.3302(a).

958 52 Pa. Code § 69.3302(a)(7), (8).

959 CAUSE-PA St. 1, p. 16: 1-14.

960 *Id.*

961 52 Pa. Code § 69.3302(a)(12).

962 CAUSE-PA St. 1, pp. 16-17; PAWC St. 10, pp. 93-94.

(except for those customers with service under contract rates) classes.[963] PAWC's low-income customers would have to bear additional costs stemming from the RDM, if approved, without any specific mitigation.[964] These additional costs would exacerbate any increases in unaffordability if PAWC is permitted to increase its base rates, apply its proposed winter averaging methodology, or implement its proposed ECIC. As proposed, the RDM does not insulate low-income customers from additional and inequitable rate burdens.[965] In addition, pursuant to Section 69.3302(a)(8),[966] low-income customers will be placed in greater risk of arrears and termination as a result of this increased unaffordability, jeopardizing their ability to access consistent and reliable services.[967] CAUSE-PA MB at 31.

CAUSE-PA is further concerned that the RDM will not be understandable to consumers, a factor for consideration pursuant to Section 69.3302(a)(13). As Mr. Geller explained, the proposed RDM "is a highly complex design and formula underpinned by rate design principles."[968] Moreover, there is no indication of what, if any, consumer education efforts PAWC intends to make around the RDM if the mechanism is approved, or whether consumers will have any recourse if they have questions or concerns about RDM-related charges.[969] CAUSE-PA MB at 31-32.

Section 69.3302(a)(10)[970] sets forth a factor for consideration related to how a ratemaking mechanism would impact the frequency of rate case filings and effect of regulatory lag. CAUSE-PA argues that there is no evidence to suggest that implementation of the RDM

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963 CAUSE-PA St. 1, pp. 16-17; PAWC St. 10, p. 94.

964 CAUSE-PA St. 1, pp. 16-17

965 CAUSE-PA St. 1, pp. 16-17.

966 52 Pa. Code § 69.3302(a)(8).

967 CAUSE-PA St. 1, pp. 16-17

968 CAUSE-PA St. 1, pp. 16-17. Supplement No. 45 to Tariff Water-PA P.U.C. No. 5 Seventh Revised Page 40.

969 CAUSE-PA St. 1, pp. 16-17.

970 52 Pa. Code § 69.3302(a)(10).

will lessen the severity or frequency of future rate increases. As discussed by PAWC's expert witnesses, PAWC's justification for its instant rate increase proposal stems from various factors unrelated to customer conservation.[971] CAUSE-PA MB at 32.

CAUSE-PA concludes that the RDM disincentivizes conservation, falling hardest on PAWC's low-income customers. CAUSE-PA urges the Commission to reject the proposed RDM in its entirety. If the Commission ultimately permits PAWC to implement an RDM, CAUSE-PA recommends that BDP customers be exempted from RDM charges to protect these financially vulnerable customers from the negative effects of the RDM.[972] CAUSE-PA MB at 33.

6. PAWLUG's Position

PAWC's proposed RDM disadvantages customers on multiple fronts by creating additional administrative burdens, eroding conservation incentives, and exposing customers to interclass subsidization. PAWLUG witness LaConte describes PAWC's RDM as follows:

> The RDM would track changes in net revenues (water revenues less production costs) between the authorized revenues for all customers in the residential, commercial, industrial, municipal, and sales for resale classes, excluding customers taking service under contract rates. Production costs, which include power, chemicals, purchased water and waste disposal, would be removed. Any positive (negative) difference would be refunded (surcharged) to customers. The RDM would apply to water operations and wastewater operations.[973]

Ms. LaConte also confirms that the RDM would apply straight-fixed variable rates to actual sales to determine the revenues PAWC should have recovered.[974] PAWLUG MB at 28-29.

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971 PAWC St. 1, pp. 7-8. CAUSE-PA St. 1, pp. 16-17

972 CAUSE-PA St. 1, pp. 16-17

973 PAWLUG St. 1, p. 11.

974 *Id* at 12.

PAWLUG argues that PAWC's proposed RDM suffers from multiple flaws and would result in unjust, unreasonable, and unduly discriminatory rates.[975] The proposed surcharge would impose administrative burdens on PAWC's customers by creating a new annual regulatory filing subject to comments and potential hearings.[976] PAWLUG avers that the RDM will erode customers' incentive to conserve water.[977] Of great concern to PAWLUG is that the RDM conflicts with cost causation by applying a uniform surcharge to all non-residential customers. As concluded by PAWC witness LaConte, this rate structure would "impact interclass cost shifting between the various non-residential customer classes, including commercial, industrial, and municipal water customers."[978] PAWLUG MB at 29.

For these reasons, PAWLUG maintains that PAWC's RDM should be rejected. If the Commission resolves to approve the RDM despite its flaws, PAWLUG avers that the Commission should exempt Industrial and Municipal customers from the RDM due to the lack of evidence that these customers are materially impacted by conservation measures, weather, or a declining number of customers.[979] At the minimum, the Commission should condition any approval of the RDM on heightened protections detailed by PAWC witness LaConte, including implementation of an "earnings" test and an asymmetrical 3% cap on a surcharge. As explained by Ms. LaConte, capping the RDM is a critical customer protection because the cap provides customers with a range of impacts for their own annual budgeting.[980] An earnings test, requiring PAWC to monitor its earnings under the RDM and, where earnings show the Company exceeding its authorized rate of return by more than 50 basis points, refund 50% of the excess

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975 66 Pa.C.S. §§ 1301 & 1304.

976 PAWLUG St. 1, p. 12.

977 *Id* at 13.

978 *Id* at 13.

979 PAWLUG St. 1-R, p. 10.

980 *Id* at 14.

earnings to customers through adjustments to the RDM surcharge or credit.[981] PAWLUG MB at 29-30.

7. Cleveland-Cliffs' Position

Cleveland-Cliffs recommends that the Commission reject the proposed RDM. Cleveland-Cliffs first notes that the Commission has already approved the Company's DSIC, a mechanism designed to provide accelerated cost recovery to PAWC for certain system improvements. The DSIC has been and will continue to be an important ongoing source of additional revenue collection outside of traditional rate case proceedings for PAWC.[982] Cleveland-Cliffs MB at 7.

Additionally, Cleveland-Cliffs notes that the Company already has the opportunity to include forecasted costs and investments through the use of a forecasted test year. In this case, PAWC used a fully projected future test year through June 30, 2025. This provides a significant benefit to PAWC compared to using an historic test period, which in this case would be a 12-month period ending June 30, 2023.[983] Cleveland-Cliffs MB at 8.

Cleveland-Cliffs avers that both the DSIC and the use of a future test year serve to reduce regulatory lag and enhance PAWC's revenue stream between rate proceedings. Therefore, the implementation of another revenue recovery tracker is unnecessary. Cleveland-Cliffs MB at 8.

Cleveland-Cliffs suggests that, if the Commission does decide to approve the proposed RDM, it should not include the Industrial class in the tracker. PAWC witness Rea only provided an analysis of conservation-related revenue losses from the Residential, Commercial, and Public (Municipal) classes. Mr. Rea did not present any analysis suggesting that weather

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[981] *Id.*

[982] Cleveland-Cliffs St. 1, p. 15.

[983] *Id.*

influences industrial water consumption. Therefore, Cleveland-Cliffs asserts that PAWC has failed in its burden to support the implementation of an RDM for industrial water users.[984] Cleveland-Cliffs MB at 8.

Cleveland-Cliffs avers that there is no evidence in this case that the Industrial class is affected by conservation measures, weather, or declining numbers of customers. It is generally understood that industrial customers have a natural incentive to implement cost-effective investments in efficient use (as well as electricity and natural gas) and are therefore unsuitable customers for an RDM tracker. PAWC's case does nothing to counter this argument.[985] Cleveland-Cliffs MB at 8.

Cleveland-Cliffs argues that the proposed RDM also presents significant problems with interclass allocations of lost revenues. If the RDM were applied to all customers in the Residential, Commercial, Industrial and Municipal classes, as PAWC proposes, any revenue shortfall would be collected from all customers. If continued conservation in Residential class's revenues declined from the Commission-authorized level in this case, that revenue shortfall would be collected from all customers, not just from the Residential class. Cleveland-Cliffs maintains that it is unreasonable to allow lost revenue in one customer class to bleed over to other classes in between rate cases.[986] Cleveland-Cliffs MB at 8-9.

Cleveland-Cliffs explains that this problem would not be solved by confining lost Industrial revenues to the Industrial class. Industrial class revenues could rise or fall based on market conditions and on the general economy. Further, if a single industrial customer left PAWC's system, the loss in revenues from that customer would be confined to the rest of the Industrial customers and would have to be picked up by those customers. This could have a devastating rate impact on those customers depending on the volumes that were lost from the

[984] Baudino Direct, p. 16.

[985] *Id.*

[986] *Id* at 17-18.

departing industrial customer. Industrial customers must not be placed in such a risky and potentially damaging position by the operation of an RDM.[987] Cleveland-Cliffs MB at 9.

Accordingly, Cleveland-Cliffs recommends that the Commission reject PAWC's RDM, or exclude the Industrial class of customers if it decides to implement a RDM in this case. Cleveland-Cliffs MB at 9.

8. Victory Brewing's Position

Victory Brewing referenced testimony offered by several of the other party witnesses in support of its position opposing PAWC's RDM. Victory Brewing referenced OCA witness Hoover's testimony, noting the many proposals PAWC has set forth to guarantee recovery of all costs between rate cases which would effectively shift all risk of recovery away from the Company and wholly onto ratepayers.[988] The RDM would not "*enhance* the safety, security, reliability or availability of utility infrastructure" as required by Section 1330(a)(2), and also sends inaccurate price signals to customers.[989] Victory Brewing MB at 9.

Additionally, Victory Brewing referenced PAWLUG witness LaConte's description of straight-fixed variable method as a form of revenue decoupling. Ms. LaConte explained that PAWC proposes to adjust the ADM annually, creating a new burden for PAWC's customers.[990] She further pointed to the interclass cost shifting that would occur among various non-residential customer classes, concluding that this "is not a reasonable outcome."[991] Victory Brewing MB at 10.

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987 *Id* at 18.

988 OCA St. 1, pp. 44-48.

989 *Id* at 46; 47-48.

990 PAWLUG St. 1, pp. 11-12.

991 PAWLUG St. 1, pp. 12-13.

Lastly, Victory Brewing noted I&E witness Cline's testimony explaining that, revenue stability "is not sufficient support to base monthly or annual goal revenues on rate components that are not consistent with cost-causation principles [and] has the potential to reduce incentives to use utility service efficiently."[992] In sum, Mr. Cline testified that this mechanism "strays too far from the concerns of affordability and conservation in the name of revenue stability for the Company."[993] Victory Brewing MB at 10.

Victory Brewing agrees with the positions of I&E, OCA, Cleveland-Cliffs and PAWLUG arguing that the RDM should be rejected. If the proposal is accepted, Victory Brewing agrees with the recommendation proffered by Cleveland-Cliffs to exclude the Industrial class. Victory Brewing MB at 10.

9. ALJs' Recommendation

The Public Utility Code provides that "[i]t is the policy of the Commonwealth that utility ratemaking should encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with the efficient consumption of utility service."[994]

Regarding alternative rate mechanisms, the Public Utility Code provides in pertinent part:

> Notwithstanding any other provision of law, including, but not limited to, sections 2806.1(k)(2) (relating to energy efficiency and conservation program) and 2807(f)(4) (relating to duties of electric distribution companies), the commission may approve an application by a utility in a base rate proceeding to establish alternative rates and rate mechanisms, including, but not limited to, the following mechanisms . . . decoupling mechanisms.[995]

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992 I&E St. 4, pp. 13-14.

993 I&E St. 4, p. 14.

994 66 Pa.C.S. § 1330(a)(2)

995 *Id* at § 1330(b)(i).

Additionally, the Commission's policy statement on distribution rate considerations provides the following:

> (a) In determining just and reasonable alternative distribution ratemaking mechanisms and rate designs that promote the purpose and scope of this statement of policy and the objectives of 66 Pa.C.S. § 1330 (relating to alternative ratemaking for utilities), the Commission may consider, among other relevant factors, the following:
>
> (1) How the ratemaking mechanism and rate design align revenues with cost causation principles as to both fixed and variable costs.
>
> (2) How the ratemaking mechanism and rate design impact the fixed utility's capacity utilization.
>
> (3) Whether the ratemaking mechanism and rate design reflect the level of demand associated with the customer's anticipated consumption levels.
>
> (4) How the ratemaking mechanism and rate design limit or eliminate interclass and intraclass cost shifting.
>
> (5) How the ratemaking mechanism and rate design limit or eliminate disincentives for the promotion of efficiency programs.
>
> (6) How the ratemaking mechanism and rate design impact customer incentives to employ efficiency measures and distributed energy resources.
>
> (7) How the ratemaking mechanism and rate design impact low-income customers and support consumer assistance programs.
>
> (8) How the ratemaking mechanism and rate design impact customer rate stability principles.
>
> (9) How weather impacts utility revenue under the ratemaking mechanism and rate design.

> (10) How the ratemaking mechanism and rate design impact the frequency of rate case filings and affect regulatory lag.
>
> (11) If or how the ratemaking mechanism and rate design interact with other revenue sources, such as Section 1307 automatic adjustment surcharges, 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments), riders such as 66 Pa.C.S. § 2804(9) (relating to standards for restructuring of electric industry) or system improvement charges, 66 Pa.C.S. § 1353 (relating to distribution system improvement charge).
>
> (12) Whether the alternative ratemaking mechanism and rate design include appropriate consumer protections.
>
> (13) Whether the alternative ratemaking mechanism and rate design are understandable to consumers.
>
> (14) How the ratemaking mechanism and rate design will support improvements in utility reliability.[996]

We agree with I&E, OCA, OSBA, CAUSE-PA, PAWLUG, and Cleveland-Cliffs that approval of PAWC's proposed RDM is not in the public interest. PAWC's proposed RDM will ultimately negate consumer conservation efforts, and those who do take measures to conserve water usage will end up giving some of their monetary savings back to the Company.

The purpose of revenue stabilization is to remove the risk of not recovering the full amount of permitted revenue requirement. However, the Company has already compensated for revenue shortfalls through Act 11, the FPFTY, its DSIC and its frequent rate case filings. We agree that the Company has not demonstrated a need for a further revenue stabilization measure.

Additionally, a review of the proposed RDM in light of the Commission's policy statement further demonstrates that it is not a just and reasonable alternative distribution ratemaking mechanism. As noted by the OCA, the RDM does not provide rate stability to customer bills because the design of the RDM uses adjustments to customers' bills to maintain

[996] 52 Pa. Code § 69.3302

revenue levels.[997] Moreover, as noted by CAUSE-PA, low-income customers will be placed in greater risk of arrears and termination as a result of this increased unaffordability, jeopardizing their ability to access consistent and reliable services.[998]

Also, PAWC has not established how its RDM will impact the frequency of rate case filings. The Company advised:

> To the extent that future rate cases are driven by lower-than-expected usage, the RDM likely would result in fewer rate cases, or at least rate cases seeking lower rate increases. However, the RDM does not affect future revenue requirements and does not recover fixed costs that are incurred after a rate case that are over and above those approved by the Commission. Therefore, if future rate cases are driven by future investment needs and associated cost recovery, the RDM would not reduce the need for such cases.[999]

Since the Company could not take a firm position, the RDM's impact on the frequency of rate case filings is unknown.[1000]

Also as noted by OCA, the RDM will not be understandable to customers, especially when combined with the quarterly rate changes that occur under PAWC's DSIC, as an RDM would add another surcharge to customers' bills which would change on a monthly basis.[1001] Moreover, as noted by CAUSE-PA, there is no indication of what, if any, consumer education efforts PAWC would make around the RDM if approved.

For the aforementioned reasons, we recommend that the Commission reject PAWC's RDM.

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997 52 Pa. Code § 69.3302(a)(8).

998 *Id.*

999 PAWC Ex. CBR-10.

1000 52 Pa. Code § 69.3302(a)(10).

1001 52 Pa. Code § 69.3302(a)(13).

B. Environmental Compliance Investment Charge

1. PAWC's Position

One of the alternative rate mechanisms specifically authorized by Section 1330(b)(2) is an automatic adjustment clause like the ECIC. PAWC's environmental compliance requirements are continuously evolving and increase the costs of water and wastewater service driving the need for rate relief.[1002] The need for and timing of measures to comply with new or changed government mandates under applicable environmental laws are outside PAWC's control.[1003] The proposed ECIC will provide a reasonable mechanism for adjusting PAWC's rates between base rate cases to support full and timely rate recognition of costs to comply with new and updated environmental regulatory mandates in a prudent and efficient manner as they emerge.[1004] The ECIC will also mitigate customer exposure to less frequent but more significant rate increases in a general base rate case by producing much smaller, gradual increases to customer bills.[1005] Costs that are recoverable through the ECIC must be consistent with the set of projects and activities set forth in an annual environmental compliance plan ("ECP") that will be subject to PUC review and approval.[1006] PAWC MB at 73.

Environmental compliance is part of PAWC's "normal" responsibilities in providing service to its customers. Nonetheless, emerging regulations or re-interpretations of existing regulations often result in new governmental mandates that disrupt PAWC's proactive five-year plan of construction work and require the Company to undertake additional projects on

[1002] I&E St. 3-SR, p. 35.

[1002] PAWC Sts. 3, pp. 5-8, & 8, pp. 22-23; PAWC Ex. JCS-1.

[1003] PAWC St. 3, p. 5.

[1004] PAWC St. 8, pp. 21-22.

[1005] *Id.*

[1006] *Id.* at 25-26.

an expedited basis to comply with those changes that increase the cost of water and wastewater service.[1007] PAWC MB at 74.

One example of such a rapidly changing set of regulatory mandates involves the combination of federal and state regulations concerning per- and polyfluoroalkyl substances (“PFAS”). On March 14, 2023, the United States Environmental Protection Agency (“EPA”), issued proposed drinking water regulations for six PFAS that will establish maximum contaminant levels (“MCLs”), Maximum Contaminant Level Goals (“MCLGs”), and monitoring, public notice and treatment requirements.[1008] The EPA is expected to finalize those PFAS standards before the end of 2024 at which point public water systems will be required to modify their facilities to comply within three years.[1009] In addition, PADEP has promulgated state drinking water standards establishing strict MCLs and MCLGs for two PFAS with compliance monitoring mandates effective January 1, 2024. For PAWC, these impending federal and state regulations will require investments in the range of $200 million before the end of 2027, based on preliminary estimates.[1010] The ECIC will provide PAWC a reasonable opportunity to recover the capital costs and expenses incurred after June 30, 2025, to meet the challenges of providing high-quality water and wastewater service. PAWC MB at 74; PAWC RB at 63.

The ECIC will not lessen scrutiny of PAWC’s environmental compliance costs. If the ECIC is approved, the PUC and all parties will have the opportunity to proactively evaluate PAWC’s proposed investments and measures to comply with new environmental mandates before any costs are incurred.[1011] Whether or not a party is inclined to review the Company’s ECP and focus attention on the associated capital costs and expenses is at the

[1007] PAWC St. 3, pp. 3-5.

[1008] *Id.* at 5-9.

[1009] *Id.* at 6-7.

[1010] *Id.*

[1011] PAWC St. 8-R, p. 11.

discretion of each party, but PAWC's proposal allows for full and fair ratemaking review of ECIC-eligible costs.[1012] PAWC MB at 74-75.

PAWC rejects any contention that PAWC's proposed ECIC is premature.[1013] The Code requires utilities to propose alternative rate mechanisms as part of a base rate case, so it is timely for the Company to propose the ECIC in this case in advance of the need to file its first ECP.[1014] PAWC analyzed how the fourteen factors in the PUC's alternative ratemaking policy statement apply to the ECIC in PAWC Exhibit JCS-1, which means the Commission has all of the information necessary to evaluate it as part of this proceeding.[1015] Moreover, PAWC asserts that Rate adjustment mechanisms for infrastructure investments are not new to the utility industry. PAWC notes that utility commissions in 30 states have approved various forms of environmental compliance riders for energy utilities, and PAWC's affiliate, Indiana-American Water Company, has a reconcilable surcharge that allows for the recovery of environmental compliance costs.[1016] PAWC MB at 75; PAWC RB at 64.

Regarding concerns raised in this proceeding about interclass cost shifting because the ECIC will be assessed as a flat percentage increase across PAWC's customer base,[1017] PAWC avers that the ECIC is modeled upon the DSIC, with a similar formula and customer safeguards.[1018] The PUC-approved DSICs of PAWC and other utilities do not draw a distinction between customer classes in calculating their percentage of billed revenues charged to customers.[1019] All customers are charged the same percentage on the theory that the revenue

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[1012] *Id.*

[1013] *See* I&E St. 3, p. 26; PAWLUG St. 1, pp. 15-17.

[1014] 66 Pa.C.S. § 1330(b)(1).

[1015] *See* 52 Pa. Code § 69.3302.

[1016] PAWC St. 8, p. 23.

[1017] OCA Sts. 4, pp. 66-68 & 4-SR, pp. 30-31.

[1018] PAWC St. 8-R, pp. 12-13.

[1019] *Id.*

requirement was fairly allocated between customer classes in setting rates in the prior base rate.[1020] PAWC maintains that the ECIC should not be treated differently. PAWC MB at 75-76.

Regarding challenges to the design of the ECIC because the Company is not proposing an annual percentage cap on revenue like the DSIC,[1021] PAWC witness Swiz explained that PAWC's DSIC investments are ongoing and programmatic, with ratable plans.[1022] In contrast, ECIC-eligible costs could be similar in magnitude, but greater in scope and potentially over a much shorter period.[1023] Accordingly, PAWC avers that the application of rate caps for the ECIC presents unique challenges as each annual ECP could be different.[1024] PAWC RB at 64.

Lastly, PAWC notes that BDP participants will receive a discount on ECP costs. As PAWC witness Swiz explained, the discount would reduce the total bill before the proposed ECIC (and current DSIC) is applied.[1025] Accordingly, PAWC believes that the Commission should grant PAWC's request to implement the ECIC. PAWC MB at 76.

2. I&E's Position

I&E opposes the implementation of the ECIC for several reasons. First, the proposed environmental compliance plan would be filed outside the parameters of a base rate case, disrupting the ability of the Commission to review the data in the context of the total impact to ratepayers and with respect to other expenses that may be increasing or decreasing between rate cases, which constitutes single-issue ratemaking. I&E MB at 99.

[1020] *Id.*

[1021] OCA MB at 95; PAWLUG MB at 31.

[1022] PAWC St. 9-R, p. 15.

[1023] *Id.*

[1024] *Id.*

[1025] PAWC St. 8-R, pp. 13-15.

Second, I&E disagrees with PAWC witness Swiz's assertion that the ECIC will not impact efficiency incentives.[1026] The fact that changing regulations require the Company to make investments or increase spending in certain areas does not mean they should be virtually guaranteed recovery of all environmental compliance projects it undertakes no matter what. There may be more than one option for compliance or other ways to save money, but the ECIC could take away the incentive for the Company to explore the options if it can rely on guaranteed recovery. I&E MB at 99.

Third, I&E witness Okum explains, "it is difficult to adequately evaluate the impact of such a charge when the Company has not provided any measurable data associated with the charge."[1027] The Company has not projected any data related to the ECIC.[1028] The Company argues in response to I&E-RE-46-D[1029] that it plans to submit an environmental plan to the Commission before implementing the charge, therefore, the expense won't be unknown. However, the fact remains that the Company has not provided any forecasted data, so costs are, in fact, entirely unknown at this time. It is difficult, if not impossible, to evaluate the mechanism and methodology without better understanding the impact to ratepayers. I&E MB at 99-100.

Finally, although environmental issues will be ongoing as environmental science continues to evolve, the implementation of such a charge indefinitely seems, in I&E's view unnecessary. Environmental compliance has always been a normal part of a utility's expenditures and will be a normal part of PAWC's expenditures whether the ECIC is approved or not. All water and wastewater utilities nationwide face these same emerging contaminant issues. In I&E's view, implementing a rider recovery mechanism for just one company before any universal Commission action could occur and before any potential government funding has been established is simply premature. I&E does not dispute that a utility should generally be able to recover costs associated with environmental compliance; however, I&E does not believe

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[1026] PAWC St. 8, Ex. JCS-1, p. 1.

[1027] I&E St. 1, p. 35.

[1028] I&E Ex. 1, Sch. 7.

[1029] I&E Ex. 1, Sch. 8.

that an open-ended surcharge, such as what has been proposed by PAWC, is the proper way to do so, and not while there are still so many unknowns. I&E MB at 100.

The issue of environmental rules changes to deal with PFAS and other issues is an industry-wide concern facing all water utilities in the Commonwealth. At this juncture, final regulations have not been formulated, and the Commission has not had the opportunity to react to this situation on a utility-wide basis as it has done in other areas such as COVID cost impacts. Moreover, this is not a concern that is limited just to Pennsylvania utilities, and like other issues such as lead, there may be federal or state programs and funding that have yet to be established to address this problem on a nationwide or state basis. Therefore, I&E maintains that approval of the ECIC in this proceeding would be premature and would not be in the public interest. I&E MB at 100-101.

3. OCA's Position

The OCA avers that PAWC has failed to demonstrate by a preponderance of evidence that the ECIC will "enhance the safety, security, reliability or availability of utility infrastructure."[1030] Although PAWC has sought to model the ECIC on the DSIC/Long Term Infrastructure Investment Plan (LTIIP) model with a plan/surcharge, the similarities are superficial. Unlike DSIC/LTIIP, which is aimed at accelerating the replacement of aging underground infrastructure above and beyond what is required under the law, the ECIC is aimed at shifting the risk of recovery of sizable and wide-ranging environmental capital investments from the Company to its customers based on what has traditionally been part of the Company's normal business risk of complying with environmental laws.[1031] The Company's compliance with environmental laws is part and parcel of PAWC's duty to meet the requirements of Section 1501 of the Code to maintain adequate, safe and reasonable service and facilities. The OCA maintains that PAWC has already shown that it can do this without any additional incentive or

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[1030] 66 Pa.C.S. § 1330(a)(2).

[1031] OCA St. 1, pp. 49-50.

inducement. Thus, PAWC has not shown how the ECIC will enhance the safety, security, or availability of utility infrastructure.[1032] OCA MB at 88-89.

The OCA notes that traditionally the utility invests in capital projects, and if found to be just and reasonable, used and useful, and prudently incurred then the utility recovers those capital expenditures in rates. Contrary to PAWC witness Swiz's contention that the Environmental Plan review process will afford parties a full and fair opportunity to assess whether proposed projects are prudent and reasonable, a full and fair review can occur only as part of a base rate case.[1033] Similarly, in response to Mr. Swiz's statement that the ECIC helps ensure that PAWC receives adequate revenue to maintain safe, reliable and compliant Water and Wastewater service, this is the process that occurs in rate cases where all components of the cost of service are reviewed.[1034] As for Mr. Swiz's position that the ECIC will promote transparency of the ratemaking process as to environmental costs because a process will be put in place to review the Company's Environmental Plan, consumers and statutory advocates have limited resources and cannot realistically expect to review recurring ECIC plans filings with the same degree of scrutiny given to base rate cases.[1035] Nor does PAWC's proposal give parties time to do so. Under PAWC's proposed review process, quarterly updates would take effect on only 10 days' notice.[1036] Parties would be required to conduct review and discovery in an expedited time frame during which parties would also be required to respond to two different sets of revisions that the Company would have the option of filing within the same period.[1037] OCA MB at 91.

[1032] OCA St. 1, pp. 49-50.

[1033] OCA St. 1 SR, p. 26.

[1034] OCA St. 1 SR, pp. 26-27.

[1035] OCA St. 4SR, p. 28.

[1036] OCA St. 4SR, p. 28.

[1037] OCA St. 4, pp. 69-70; OCA St. 4SR, p. 28.

The OCA further avers that PAWC has failed to demonstrate by a preponderance of evidence that the ECIC is "consistent with efficient consumption of utility service."[1038] The ECIC does not align revenues with cost causation as to both fixed and variable costs.[1039] The ECIC will be assessed as a percentage applied to each customer's total bill. Over 80% of the Company's Water and Wastewater revenues will be collected under volumetric rates under the Company's proposed rate structure in this case. However, the OCA notes that 95% of the costs associated with providing Water and Wastewater service are fixed.[1040] The ECIC is likely to result in interclass and intraclass cost shifting because it will be assessed as a percentage increase to the total amount billed and will not be assigned based on cost causation principles.[1041] OCA MB at 91-92.

The OCA is also concerned that the ECIC is monopolistic excess that will harm customers unless the Company's ROE is adjusted downward to reflect the shifting of risk from the Company to consumers. The ECIC is a broad, unrestricted surcharge to recover capital and operating expenses between rate cases that could prove to be a large component of a customer's bill for usage, and even if limits were imposed on the surcharge, it is unnecessary and unreasonable. Expenditures of the magnitude proposed for the ECIC should be reviewed as part of a base rate case when they are reasonably certain to become used and useful.[1042] The ECIC unreasonably shifts the risk of recovery of environmental investments from the Company to consumers. The challenges PAWC faces in complying with new and emerging environmental regulations or regulatory policy objectives are typical of the challenges faced by any utility management. The ECIC unreasonably places greater risk on consumers for the benefit of company shareholders because through the ECIC, PAWC would be able to immediately recover

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1038 66 Pa.C.S. § 1330(a)(2).

1039 OCA St. 4, p. 70.

1040 OCA St. 4, p. 67.

1041 OCA St. 4, p. 70.

1042 OCA St. 1, p. 51.

costs, including a return to investors. This risk is currently, and can in the future, be appropriately addressed through traditional ratemaking.[1043] OCA MB at 93.

The OCA further avers that the ECIC would harm low-income customers because it is an additional charge to be paid and the ECIC would remove environmental compliance costs from the set of charges that would otherwise be subject to reduction under the Company's BDP. PAWC proposes to maintain the low-income bill discounts at their historic levels despite the fact that the Company is proposing to substantially increase its fixed and volumetric charges. Imposing a non-discounted ECIC would simply increase low-income bills. The unaffordable Bill to Income (BTI) Ratios identified in OCA witness Colton's testimony would be driven even higher, because the BTIs he cited do not include the environmental costs proposed to be collected through the ECIC.[1044] Additionally, low-income customers would pay a greater proportion of the ECIC charges than residential customers generally because low-income customers have monthly consumption greater than residential customers overall, according to PAWC's own data.[1045] OCA MB at 94.

Lastly, the OCA argues that PAWC has failed to demonstrate that its proposal meets the fourteen factors set forth in the Commission Statement of Policy to be considered when proposing an alternative ratemaking mechanism.[1046] OCA MB at 94.

4. OSBA's Position

The OSBA argues that PAWC's proposed ECIC is the textbook example of single-issue ratemaking, a practice that runs afoul of traditional utility regulation before the PUC. It is true that PAWC's proposed ECIC might be considered alternative regulation. However, PAWC has shown a predilection for entering into costly expenditures, the acquisition of the

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[1043] OCA St. 4, pp. 68-69.

[1044] OCA St. 5, pp. 90-91.

[1045] OCA St. 5, pp. 91-92.

[1046] 52 Pa. Code § 69.3302(a)(1)-(14).

Butler Area Sewer Authority being a prime example. The OSBA does not trust PAWC to control its "environmental compliance costs." Moreover, the OSBA argues that the entire point of rejecting single-issue ratemaking is that a traditional rate case allows all parties, including the Commission, the opportunity to balance the expenses of a proposal, such as an ECIC, with possible savings created by a Company's environmental compliance projects.[1047] Accordingly, the OSBA requests that the Commission reject PAWC's proposed ECIC. OSBA MB at 23-24.

5. CAUSE-PA's Position

PAWC proposes a process for plan submission that would include the filing of answers and comments, but no ability to conduct discovery or otherwise assess the prudency of PAWC's compliance plan, the reasonableness and justness of the expenditures necessitated by the plan, or the reasonableness and justness of the resulting charge on consumers.[1048] PAWC proposes to apply the ECIC "equally" to all customer classes.[1049] For low-income residential customers enrolled in PAWC's Bill Discount Program (BDP), PAWC intends to apply the ECIC after the BDP rate discount has been applied to the bill.[1050] In other words, the BDP rate discount would be applied to base charges (i.e. service charges and consumption charges) before the ECIC is calculated.[1051] CAUSE-PA MB at 34.

Upon consideration of the factors in 52 Pa. Code § 69.3302, CAUSE-PA asserts that the proposed ECIC is unreasonable and contrary to the public interest. As a threshold matter, the impacts of the proposed ECIC on PAWC's customers and its assistance programs[1052]

[1047] OSBA St. 1, p. 46.

[1048] PAWC St. 8, pp. 25-26.

[1049] PAWC St. 8, p. 29.

[1050] CAUSE-PA St. 1, p. 19: 1-8.

[1051] *Id.*

[1052] 52 Pa. Code § 69.3302(a)(7).

is largely unclear because of the scant details included in PAWC's proposal.[1053] It is impossible to determine the reasonableness of the ECIC and, in turn, whether the ECIC will operate equitably and in the public interest based on the information provided to date.[1054] CAUSE-PA MB at 34-35.

Moreover, CAUSE-PA asserts that the proposed ECIC wholly fails to include appropriate consumer protections for financially-vulnerable low-income customers pursuant to Section 69.3302(a)(12).[1055] CAUSE-PA asserts that the design of rate recovery for environmental mitigation should account for the broad disparities that low-income consumers, their families, and their communities have experienced from exposure to PFAS and other environmental contaminants.[1056] In 2019, the Center for Science Democracy observed that low-income households and people of color had high prevalence of living within a five mile radius of contaminated sites.[1057] In turn, households will face higher PFAS concentrations the closer they are located to the primary source.[1058] CAUSE-PA maintains that these economically vulnerable households should not also be required to bear the unaffordable financial burden for remediating these conditions through their monthly PAWC bills.[1059] CAUSE-PA MB at 35-36.

Lastly, CAUSE-PA maintains that the proposed ECIC would improperly increase customer rates outside of base rates approved through PAWC's rate proceedings.[1060] As noted by Mr. Geller: "[e]nvironmental remediation costs are part of PAWC's cost of doing business

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1053 CAUSE-PA St. 1, p. 19: 1-8.

1054 CAUSE-PA St. 1, p. 19: 1-19.

1055 52 Pa. Code § 69.3302(a)(12).

1056 CAUSE-PA St. 1, pp. 19-20.

1057 CAUSE-PA St. 1, pp. 20: 10-16.

1058 *Id.*

1059 *Id.*

1060 CAUSE-PA St. 1, p. 19: 1-19.

and should be included for consideration and analysis within base rate proceedings."[1061] In sum, CAUSE-PA concludes that it is inequitable, unjust, and unreasonable to shift the financial burden of PFA mitigation and compliance to residential customers. CAUSE-PA MB at 37.

6. PAWLUG's Position

PAWLUG avers that similar to PAWC's RDM, the proposed ECIC is an unsupported additional surcharge mechanism that would unreasonably burden customers without any showing of necessity. PAWC proposes the ECIC to recover costs between rate cases arising from government-mandated environmental standards.[1062] While PAWC claims that mechanisms like the ECIC are common, this claim inappropriately conflates the ECIC with a DSIC.[1063] PAWC has not made any showing that ECICs are common in the industry.[1064] PAWC has further failed to identify any pending environmental costs that would apply to the ECIC. The proposed ECIC is speculative single-issue ratemaking and should not be approved. PAWLUG requests that, if the Commission finds merit in the proposal, it should be modified to incorporate some measure of customer protections, such as a 3% cap on total annual revenue recovered through the ECIC.[1065] PAWLUG MB at 30-31.

7. Victory Brewing's Position

Victory Brewing referenced testimony offered by several of the other party witnesses in support of its position opposing PAWC's ECIC. Victory Brewing referenced OCA witness Hoover's testimony that compliance with environmental laws is an integral part of the Company's obligation to provide adequate, safe and reasonable service and facilities under

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[1061] *Id.*

[1062] PAWC St. 8, p. 24.

[1063] PAWLUG St. 1, p. 16.

[1064] *Id.*

[1065] PAWLUG St. 1, p. 17.

Section 1501 of the Public Utility Code, and PAWC has been more than able to meet the Section 1501 requirements without an ECIC in place.[1066] Victory Brewing MB at 11.

Additionally, Victory Brewing referenced I&E witness Okum's explanation that because the proposed ECIC would be filed outside the parameters of a base rate case, the PUC would not have the ability to review the data in the context of total impact to ratepayers and with respect to other expenses that may be increasing or decreasing between rate cases. Ms. Okum also pointed out that the Company may be able to achieve compliance without increasing costs by implementing other savings measures. Finally, witness Okum noted that "it is difficult to adequately evaluate the impact of such a charge the Company has not provided any measurable data associated with the charge."[1067] Victory Brewing MB at 11.

PAWLUG witness LaConte, who indicated that although PAWC claimed that the proposed ECIC has become commonplace in utility regulation, noted that none of the water utilities in its proxy group have such a mechanism. Witness LaConte further explained that PAWC has not incurred or included any pending environmental costs that would apply to the ECIC, meaning that the cost projections are based on speculative estimates.[1068] Victory Brewing MB at 11.

Accordingly, Victory Brewing asserts that the Commission should reject the ECIC. Victory Brewing MB at 11.

8. ALJs' Recommendation

We agree with I&E, OCA, OSBA, CAUSE-PA, PAWLUG, and Victory Brewing that approval of PAWC's proposed ECIC is not in the public interest.

[1066] OCA St. 1, pp. 48-51.

[1067] I&E St. 1, pp. 34-35.

[1068] PAWLUG St. 1, p. 16.

The Company advised that its proposed ECIC will provide a mechanism for adjusting PAWC's rate between base rate cases to support rate recognition of costs to comply with new and updated environmental regulatory mandates as they emerge. First, we agree with I&E, OCA, and CAUSE-PA that since PAWC would file the proposed environmental compliance plan between rate cases, the Commission will not be able to assess the impact that the ECIC, along with other expenses, will have on PAWC's ratepayers. Although the Company avers that the environmental plan review process will afford interested parties a full opportunity to determine if the proposed plan is reasonable, the only way to have a full opportunity to review the plan is within the confines of a rate case. What PAWC is proposing is single issue ratemaking. The Commonwealth Court has held that single issue ratemaking is prohibited if it addresses a matter normally considered in a base rate case.[1069] For this reason alone, the proposed ECIC should be rejected.

Additionally, and as noted by I&E, CAUSE-PA, and Victory Brewing, it is impossible to ascertain the impact of this proposed charge due to the limited data associated with the charge. That necessarily implies that it is impossible determine the impact of this charge on low-income customers as suggested by the Commission's policy statement on distribution rate considerations.[1070]

We also agree with I&E that PAWC's proposed ECIC is premature. As noted by I&E, implementing a rider recovery mechanism for just one company before any universal Commission action can occur, and before any potential government funding has been established to address this problem, is premature.

Accordingly, we recommend that the Commission reject the Company's proposed ECIC.

[1069] *Pa. Indus.l Energy Coal. v. Pa. Pub. Util. Comm'n*, 653 A.2d 1336 (Pa. Cmwlth. 1995).

[1070] 52 Pa. Code § 69.3302(a)(7).

XIII. LOW-INCOME CUSTOMER ASSISTANCE

A. Affordability Analysis

1. PAWC's Position

PAWC conducted a detailed analysis of the affordability of its water and wastewater services.[1071] PAWC witness Rea prepared (for both water and wastewater services), an Enterprise-Level analysis of affordability, which considered the affordability of service at a high-level over a multi-year period, and a Community-Level analysis, which presents a focused analysis of affordability of service at the individual customer level under current and proposed rates and current economic conditions.[1072] Mr. Rea concludes that:

- The affordability of the Company's water and wastewater service from 2012 through the forecast test period indicates that the way the Company has invested in and managed its water and wastewater systems has indeed been for the long-term benefit of our customers.

- PAWC's water and wastewater service has been, is, and is expected to continue to be affordable for the majority of its residential customers, including under proposed rates.

- There are, however, groups of customers for whom affordability of water and wastewater service may be challenging.[1073]

He also notes that PAWC's proposed rates are affordable, not only because the bill-to-income ("BTI") ratio at median household income ("MHI") falls below the 2% level, but because the Company's proposed rate design (including the BDP) gives almost every residential customer the opportunity to obtain "Basic Water Service" and wastewater service at affordable

1071 *See* Exs. CBR-1 and CBR-2.

1072 PAWC St. 10, p. 5; PAWC St. 10-R, pp. 3-4.

1073 PAWC St. 10, p. 22. *See also* PAWC St. 10, pp. 7 (results of Water Enterprise-Level Analysis), 8-9 (results of Wastewater Enterprise-Level Analysis), 15-17 (results of Water and Wastewater Community-Level Analyses).

levels (e.g., less than 2% of household income for one form of service and 4% of household income for both).[1074] PAWC MB at 76-77.

a. Enterprise-Level Analysis

PAWC notes that both OCA and CAUSE-PA argued that Mr. Rea's use of MHI in his Enterprise-Level Analysis was inappropriate.[1075] However, PAWC maintains that Mr. Rea provided ample support for use of the MHI and the Company's use of the 2% benchmark for assessing affordability.[1076] MHI is widely recognized, well-understood, and a readily available measure of household income, and easily compatible with the Enterprise-Level Analysis, and the use of MHI from homeowners ("MHI-HO") is appropriate since most PAWC customers are homeowners and MHI-HO is reflective of the Company's residential population.[1077] Furthermore, Mr. Rea acknowledges that 2% is not a "perfect" benchmark, but it is a commonly referenced standard for affordability of water and wastewater service.[1078] PAWC MB at 77-78.

PAWC avers that the multi-year focus of Mr. Rea's Enterprise Level Analysis is appropriate to focus on customer bills over time, not just rates. Bills are the proper focus because they account for rates and usage. There has been a decline in customer consumption over time, which contributes to higher rates to achieve the same revenue requirement. Thus, an appropriate analysis will examine customer bills, that take into account rates and usage, rather than rates alone.[1079] PAWC asserts that OCA witness Colton's "improved" Enterprise-Level Analysis that assumes constant usage is flawed for this very reason. Mr. Rea explains that "this is precisely the wrong way to do a multiyear evaluation of affordability because rates and usage

1074 PAWC St. 10-R, p. 9.

1075 *See* OCA St. 5, pp. 9, 12-14; CAUSE-PA St. 1, p. 37.

1076 PAWC St. 10-R, pp. 7-8.

1077 *Id* at 10-12.

1078 PAWC St. 10, p. 18, PAWC St. 10-R, p. 8.

1079 PAWC St. 10-R, pp. 13-14.

levels are connected."[1080] Mr. Rea also maintains that Mr. Colton's allegations of technical errors are unfounded.[1081] PAWC MB at 78-79.

In response to CAUSE-PA witness Gellar's claim that PAWC's Affordability Index[1082] "does not assess both the depth and breadth of unaffordability," PAWC notes that the Affordability Index is meant to provide a simple and easy way to understand a metric that shows the percentage of customers for whom Basic Water Service is less than 2% of household income. However, Exhibit CBR-1 and CBR-2 provide "enormous levels of detail on the affordability of water and wastewater service across all income groups and also provide data on BTI ratio for customers at different levels of household income by increments of [the federal poverty level]," which contains exactly the depth and breadth of information that Mr. Geller claims is absent from PAWC's analysis.[1083] PAWC MB at 79.

b. Community-Level Analysis

Regarding PAWC's Community-Level Analysis, PAWC explains that the analysis looks at data at the customer level (rather than high-level system data, which is used in the Enterprise-Level Analysis), while noting that the Company cannot assess the affordability of each individual customer.[1084] PAWC MB at 80.

Moreover, PAWC defends its estimate of 40 gallons of water per household member as representative of PAWC customer actual water usage,[1085] and notes that it would be impractical, if not impossible, to address every permutation in a customer household. PAWC

[1080] *Id* at 15-16.

[1081] *Id* at 14.

[1082] "Affordability Index" measures the percentage of customers for whom Basic Water Service is expected to be less than a percentage of household income. While there is no standard for affordability as a percentage of MHI, the Company utilizes 2% as a benchmark. PAWC St. 10, pp. 10, 17.

[1083] PAWC St. 10, p. 23.

[1084] *Id* at 18-19.

[1085] PAWC St. 10-R, pp. 19-20; 24.

acknowledges that there will always be some customers for whom affordability of water and wastewater service may be challenging, but for the large majority of residential customers, water and wastewater service is affordable and will continue to be affordable under the Company's proposed rates.[1086] To address affordability for lower income customers, the Company has addressed the issue in a reasonable manner by proposing rates and changes to the BDP and continuing the same level of shareholder funding for grants that ensure that PAWC's water and wastewater services remain affordable for the vast majority of its customers.[1087] Accordingly, PAWC avers that its affordability analysis is reasonable. PAWC MB at 80-81.

2. I&E's Position

I&E witness Kubas recommends that the Commission not rely on the Company's affordability analysis to justify limiting PAWC's wastewater rates for three reasons. First, I&E does not believe that making the average bills of water and wastewater customers comparable should be the primary goal as there is a substantial difference in operating costs between water and wastewater systems. Cost causation should be the primary factor in setting rates. There is no rate making criteria that would imply that water customers and wastewater customers should have comparable rates. Second, the analysis ignores the fact that water customer who do not receive wastewater service from PAWC will incur their own wastewater costs that may or may not be comparable to their PAWC water rates while they subsidize PAWC wastewater customers to provide them with comparable rates. Third, the analysis ignores the benefits the Company claims that could or have accrued to customers in acquired systems. As an example, the analysis ignores the potential local tax reductions PAWC claimed a customer may receive after the wastewater system was acquired by PAWC. Therefore, I&E asserts that PAWC's affordability analysis is flawed and should not be used to establish wastewater rates.[1088] I&E MB at 101-102; I&E RB at 43.

[1086] *See* PAWC St. 10, pp. 4-22.

[1087] *See* PAWC St. 10-R, p. 9.

[1088] I&E St. 3, pp. 13-14.

3. OCA's Position

To determine if rates are affordable for PAWC's customers, PAWC and the OCA generally agree that a consumer's water/wastewater burden, or the proportion of income dedicated to paying the consumer's bill for water and wastewater service, or the bills-to-income (BTI) ratio (BTI Ratio), should not exceed 2%.[1089] Where PAWC and the OCA disagree, however, is on the affordability analysis that is used to determine those customers who have a water burden exceeding the affordable 2% BTI Ratio. The OCA believes that this disagreement is significant because the affordability analysis that is used to determine how many and which customers have water burdens that exceed the 2% BTI Ratio ultimately supports the development and design of low-income customer assistance programs, including, but not limited to, the Company's H2O BDP. The OCA avers that PAWC has not met its burden of proof in demonstrating with substantial evidence that its affordability analysis will lead to affordable and just and reasonable rates, and that it has presented fully substantiated adjustments to PAWC's affordability analysis that would lead to affordable and just and reasonable rates for low-income customers.[1090] OCA MB at 95-96.

Specifically, the OCA argues that the affordability analysis presented by PAWC witness Rea at the enterprise level and community level is inadequate and unreasonable and, therefore, Mr. Rea's conclusion that PAWC bills are generally affordable when viewed from both the community level and the household level is unreasonable and unsupported. OCA witness Colton corrects the flaws in the Company's analyses and presents a fully substantiated and accurate analysis that it believes should be adopted by the Commission.[1091] Mr. Colton's recommended affordability analysis, at a high level, is as follows:

- *Enterprise level*: First, reject Mr. Rea's recommendations to measure affordability using Median Household Income (MHI) and the Median Household Income of Homeowners (MHI-HO). Second, examine BTI Ratios at the average

1089 PAWC St. 10, pp. 4-23; OCA St. 5, pp. 7-39.

1090 OCA St. 5, pp. 7-39.

1091 OCA St. 5, pp. 7-39.

income in the First Quintile and Second Quintile given a constant usage over the years. Third, determine what income would be needed in order to achieve a BTI Ratio of 2.0% each year and examine the number of zip codes within the PAWC service territory that have those incomes at the average Q1 and average Q2 income levels.[1092]

- *Community level*: First, reject the limitation of any "affordability analysis" to use of a minimal "Basic Water Service." Second, do not examine affordability only for the PAWC population as whole. Third, measure affordability at different income levels. Finally, do not consider only the *breadth* of affordability (*i.e.*, the number of customers with BTI Ratios exceeding 2% of income), but also consider the *depth* of affordability (*i.e.*, recognizing that a substantial number of the customers with unaffordable bills, do not merely have a BTI Ratio "over 2%," but have a BTI Ratio of over 20%).[1093]

The OCA maintains that Mr. Rea did not credibly respond to the affordability analysis that Mr. Colton recommended be adopted. Moreover, the OCA submits that Mr. Colton's affordability analysis credibly demonstrates the need for PAWC to make significant changes to its low-income program offerings. OCA MB at 96; OCA RB at 60.

4. CAUSE-PA's Position

CAUSE-PA witness Geller's analyses of the affordability of PAWC's rates found that low-income customers face excessive and unaffordable water and wastewater burdens – often exceeding 20% of household income, depending on household size and usage.[1094] Pursuant to the calculations in CAUSE-PA Exhibit 1, attached to Mr. Geller's direct testimony, low-

[1092] OCA St. 5, pp. 7-22.

[1093] OCA St. 5, pp. 22-39

[1094] CAUSE-PA St. 1, pp. 27-28. CAUSE-PA St. 1, Ex. 1. A combined water/wastewater burden for a family of 4 at 50% FPL using 5,000 gallons is approximately 20% at present rates.

income customers devote large portions of their incomes each month to afford basic water/wastewater services.[1095] CAUSE-PA MB at 40.

CAUSE-PA avers that PAWC's low-income customers are already struggling, even at present rates, to afford and stay connected to water/wastewater services. PAWC's proposed rate increases would exacerbate existing levels of unaffordability for PAWC's low-income customers. The excessive water and wastewater burdens that PAWC proposes to impose will have profound and negative impacts on its low-income customers. These proposed increases will likely cause increased terminations of economically vulnerable consumers or, alternatively, "will cause economically vulnerable households to go without other critical life necessities such as housing, energy, food, medicine, childcare, and other essential services to afford water and wastewater services to their home."[1096] CAUSE-PA MB at 43-44.

CAUSE-PA further avers that the depth and breadth of unaffordability for PAWC's low-income customers are excessive at both existing and proposed rates, particularly when varied usage levels are taken into account.[1097] Contrary to PAWC's flawed affordability analyses which seek to minimize and obscure rate impacts, the data and evidence in this case plainly reveal that a substantial number of PAWC's low-income customers do not have access to affordable water/wastewater services.[1098] Mr. Geller expressed concerns that PAWC's analyses masked critical affordability challenges experienced by PAWC's low-income customers.[1099] Mr. Geller concluded that "[i]t is neither just, reasonable, nor in the public interest to obscure the underlying affordability for PAWC's low-income customers – as PAWC's affordability analyses appear to do."[1100] CAUSE-PA MB at 46-47.

[1095] CAUSE-PA St. 1, pp. 27-28.

[1096] CAUSE-PA St. 1, pp. 31: 19 – 32: 2.

[1097] CAUSE-PA St. 1, pp. 38: 6-14.

[1098] *Id.*

[1099] *Id.*

[1100] *Id.*

Significant numbers of PAWC's residential customers already have categorically unaffordable rates of basic water/wastewater services. It is inappropriate and contrary to the public interest to shunt the significant numbers of low-income customers aside by concluding that unaffordability for these customers is unavoidable and therefore acceptable. Instead, the weight of the evidence in this proceeding demonstrates that PAWC has failed to meet its burden of showing that its rates – both as existing and as proposed – are just, reasonable, and in the public interest. Accordingly, CAUSE-PA believes it is imperative that the Commission reject PAWC's present rate increase request and require PAWC to implement revisions to its programs, policies, and procedures to ensure that PAWC's low-income customers can afford to connect to and maintain PAWC's services in their homes. CAUSE-PA RB at 16-17.

5. ALJs' Recommendation

In the present case, I&E, OCA and CAUSE-PA all request that the Commission reject PAWC's affordability analysis. However, we find the Company's Enterprise-Level analysis and Community-Level Analysis to be generally reasonable approaches to determining customer affordability.

Regarding PAWC's Enterprise-Level Analysis, we agree with the Company that the multi-year focus on customer bills over time is appropriate, as the Company avers, because they account for rates and usage, and rates and usage are connected. Moreover, and as noted by PAWC, the Company did consider a significant level of income information as well as BTI ratios for customers at different levels of household income by increment of the Federal Poverty Level (FPL). We find this to be a reasonable way to estimate customer affordability.

Regarding PAWC's Community-Level Analysis, we agree with the Company that they cannot assess the affordability of each individual customer in their service territory. Accordingly, we find that the use of a 40-gallon-per-household member metric to be reasonable under the circumstances.

We do recognize that the customer testimony provided during the public input hearings in this proceeding concerned, in large part, unaffordability of service. However, we also recognize that regardless of any affordability analysis, there will always be households who will constantly struggle with their bills, regardless of any adopted affordability analysis. These customers will have to avail themselves of PAWC's low-income assistance programs, such as PAWC's Bill Discount Program.

B. H20 Bill Discount Program Design

1. PAWC's Position

PAWC's existing Bill Discount Program ("BDP") provides substantial bill discounts to customers whose annual household incomes fall between 0% and 150% of the FPL. As shown below, there are three tiers of discounts within the program and customers with the lowest incomes receive the highest percentage discounts:[1101]

BDP Discount Levels	**Water Service Charge Discount**	**Water Service Volumetric Discount**	**Wastewater Total Bill Discount**
0% - 50% FPL	80%	80%	80%
51% - 100% FPL	65%	50%	55%
101% - 150% FPL	40%	25%	30%

PAWC MB at 81.

PAWC is proposing to keep the existing three tiers without any changes and add a fourth tier of eligibility to expand the program offerings to customers whose household incomes are between 151% and 200% of FPL. For water customers in this fourth tier of eligibility, PAWC proposes to offer discounts of 30% on the 5/8" meter charge and 15% on the volumetric rate for water service. For wastewater customers in this fourth tier of eligibility, PAWC proposes to offer a discount of 20% on the total wastewater bill. The expansion is intended to address affordability issues for the significant number of customers in the 151% and 200% of

1101 PAWC Sts. 10, p. 23 &10-R, p. 28.

FPL range (estimated to be over 50,000 residential water customers and over 10,000 residential wastewater customers). The Company's affordability analysis demonstrated that a majority of customers in that income range would have bills for water and/or wastewater service at greater than 2% of household income.[1102] PAWC MB at 81-82.

The Company opposes CAUSE-PA witness Geller's recommendation to modify the BDP from a tiered to a percentage of income payment ("PIP") structure. As explained by PAWC witness Dean, a PIP structure is not feasible because: (1) the Company's billing system is not configured to accommodate a PIP structure; and (2) the Company does not currently have verified income data for most BDP participants. Further, the Company believes that a PIP structure is not necessary because the existing tiered discount structure is reasonable and sufficiently tailored to a customer's income level.[1103] PAWC MB at 82.

PAWC continues to support its BDP expansion proposal but does not oppose the specific tier-level discount changes recommended by OCA witness Colton or Mr. Geller. Mr. Colton supports expansion of the BDP to include a fourth tier, but recommends a higher discount percentage for that fourth tier and increases to certain discounts for the existing tiers.[1104] Mr. Geller was supportive of the proposed expansion and recommended increasing the discount percentages in the existing tiers first.[1105] PAWC believes that such changes would provide greater levels of affordability for customers at the lowest end of the income scale. The Company defers to the Commission as to the level of discounts it deems appropriate in this proceeding.[1106] PAWC MB at 82.

1102 PAWC Sts. 10, pp. 23-26 &10-R, pp. 28-29.

1103 Tr. 2019-20; PAWC St. 14-R, pp. 5-6.

1104 OCA St. 5, pp. 45, 49-50.

1105 CAUSE-PA St. 1, pp. 44-54.

1106 PAWC St. 10-R, p. 31..

2. OCA's Position

The OCA supports PAWC's proposal to add a fourth tier of eligibility for customers whose household incomes are between 151% and 200% of Federal Poverty Level (FPL).[1107] The evidence also shows the need for increased percentage discounts for each tier, as proposed by the OCA and CAUSE-PA witness Geller:[1108]

	Water Service Charge Discount	Water Service Volumetric Discount	Wastewater Total Bill Discount
Tier 1 (0-50% FPL)	90%	80%	85%
Tier 2 (51-100% FPL)	75%	65%	73%
Tier 3 (101-150% FPL)	60%	40%	55%
Tier 4 (151-200% FPL)	30%	20%	37%

Notwithstanding disagreements over the affordability analysis, PAWC "does not oppose the modifications recommended by Mr. Colton or Mr. Geller. The proposed discounts to the BDP offered by Mr. Colton and Mr. Geller would provide greater levels of affordability for customers at the lowest end of the income scale."[1109] These modified discounts will generate reasonably affordable BTI Ratios for all four FPL tiers and help to make rates more affordable than PAWC's existing discount levels.[1110] OCA MB at 97-98; OCA RB at 61-62.

[1107] PAWC St. 10, pp. 24, 27-28; OCA St. 5, pp. 49-50.

[1108] PAWC St. 10R, p. 29; OCA St. 5, p. 45; CAUSE-PA St. 1, p. 45.

[1109] PAWC St. 10R, p. 31.

[1110] PAWC St. 10R, p. 29; OCA St. 5, pp. 46-48; CAUSE-PA St. 1, pp. 45-46.

3. CAUSE-PA's Position

To ensure that the BDP is correctly structured to provide consistent affordability for all income tiers, CAUSE-PA recommends the following improvements to the structure and discount levels of the BDP:[1111]

Recommended BDP Discount Levels

	Water		Wastewater	
	Fixed Charge	**Volumetric Charge**	**Fixed Charge**	**Volumetric Charge**
Tier 1 (0-50% FPL)	90%	80%	85%	85%
Tier 2 (51-100% FPL)	75%	65%	73%	73%
Tier 3 (101-150% FPL)	60%	40%	55%	55%

CAUSE-PA MB at 49.

Pursuant to this proposal, BDP participants would see marked improvements to affordability and reductions in water/wastewater burdens, ensuring a greater number of participants will receive a consistently affordable rate. We recommend that the Commission require PAWC to implement these recommended improvements to its BDP structure and discounts upon entry of a final order in this proceeding – regardless of whether any rate increase is approved. CAUSE-PA MB at 49.

OCA witness Colton recommended the same discount levels for BDP participants between 0-150% FPL, but additionally recommended enhanced discounts for PAWC's proposed income tier between 151-200% FPL.[1112] In response to the recommended discount level set forth by both Mr. Geller and Mr. Colton, PAWC witness Rea indicated that, while ultimate approval rests with the Commission, PAWC does not oppose Mr. Geller and Mr. Colton's BDP discount level proposals.[1113] CAUSE-PA MB at 50.

1111 CAUSE-PA St. 1, p. 45, Table 12.

1112 CAUSE-PA St. 1, pp. 45-46.

1113 PAWC St. 10- R, p. 30: 1-5.

Additionally, CAUSE-PA urges the Commission to require PAWC to transition its BDP to a PIP structure. Specifically, CAUSE-PA recommends that PAWC be required to file a Petition within six months of a final order in this proceeding to pursue implementation of a PIP structure for its BDP, designed to achieve a combined water/wastewater burden that does not exceed 4% of a participants' household income.[1114] A PIP structure is the optimal way to achieve consistent, equitable, and targeted levels of affordability for low-income customers, as it calculates a participants' rates based on their precise income level.[1115] CAUSE-PA MB at 50.

Mr. Geller explained that transitioning the BDP to a PIP structure would ensure that customers with the lowest incomes and/or with larger family sizes do not pay disproportionate levels of their incomes for critical water/wastewater services. This is particularly important as rates of basic water/wastewater services are likely to continue to rise precipitously in coming years.[1116] A properly structured PIP-design would deliver accessible, consistent, and equitable levels of affordability for low-income participants.[1117] CAUSE-PA MB at 51.

4. ALJs' Recommendation

Regarding PAWC's proposal to add a fourth tier of eligibility for the BDP for customers whose household income is between 151% and 200% of the FPL, we are in favor of additional measures to assist PAWC's customers afford their bills. As no party opposes this proposal, we find that it is reasonable and recommended that the Commission approve PAWC's proposal.

Additionally, regarding OCA's and CAUSE-PA's proposals to increase the percentage discounts for each tier of the BDP, we find these proposals to be reasonable.

1114 CAUSE-PA St. 1, p. 27: 2-12.

1115 CAUSE-PA St. 1, pp. 44-45.

1116 *Id.*

1117 *Id.*

Accordingly, since PAWC does not oppose the increased percentage discounts for each tier of the BDP, we recommend that the Commission approve these proposed increases, to take effect no later than the effective date of rates resulting from PAWC's next general rate increase filed with the Commission. This will allow the Commission to evaluate the financial impacts of additional customer assistance program (CAP) changes, including other changes discussed herein, more comprehensively.

PAWC does oppose CAUSE-PA's recommendation that PAWC be required to transition its BDP to a PIP structure. We agree with the Company that this recommendation is not feasible because, as noted by the Company, its billing system is not configured to accommodate a PIP structure and also because the Company does not currently have verified income data for most BDP participants. Moreover, with the addition of the fourth tier and the increased percentage discounts, we do not feel that CAUSE-PA has established that any further change to the BDP is necessary. Accordingly, we recommend that the Commission reject CAUSE-PA's recommendation that PAWC be required to transition its BDP to a PIP structure.

C. Hardship Fund

1. PAWC's Position

The H2O Program provides Hardship Grants for qualifying customers with annual household incomes at or below 200% of FPL and that have made a payment of at least $50 over the last 90 days. A customer may receive a Hardship Grant equal to the customer's total account balance at the time of grant issuance, up to the maximum annual grant amount of $500 for water service and $500 for wastewater service. H2O Hardship Grants are funded through an annual shareholder donation (currently $625,000 for water and $125,000 for wastewater) as well as customer and employee donations.[1118] Upon closing the PUC-approved BASA acquisition, PAWC will expand eligibility to customers with household income at or below 250% of FPL and

[1118] PAWC St. 9, pp. 13-14; PAWC 14-R, pp. 15-16 (minimum payment requirement).

contribute $3.5 million to the Hardship Fund ($700,000 annually for five years) in addition to PAWC's annual $750,000 contribution.[1119] PAWC MB at 83.

Several parties made recommendations regarding Hardship Fund operation and funding levels. On the operational side: (1) CEO witness Warabak recommends distributing Hardship Funds based on the percentage of low-income customers in each service area or county;[1120] (2) OCA witness Colton recommends raising the income threshold for the Hardship from 200% of FPL to 250% of FPL;[1121] and (3) CAUSE-PA witness Geller recommends (i) elimination of the good-faith payment requirement, (ii) permitting customers to apply for more than one grant per program year, up to applicable maximum annual grant amounts, and (iii) increasing the annual grant amount to $600 for water and wastewater, respectively.[1122] Regarding overall funding: (1) Mr. Geller recommends increasing annual funding by $1 million; and (2) Ms. Warabak recommends increasing the annual shareholder contribution by $330,000.[1123] PAWC MB at 83-84.

Apart from the recommendation concerning multiple customer grants per year, which PAWC is already working to implement,[1124] PAWC avers that the proposed operational changes should be rejected. First, regarding the distribution of Hardship Funds, the Company's existing statewide funds for water and wastewater are appropriately designed to ensure that the Hardship Fund dollars reach as many low-income customers across PAWC's service territory as possible. Previously, PAWC maintained regional caps for the water Hardship Fund and found that the regional design could prevent income-eligible customers in a region from accessing the Hardship Fund once the cap was hit. CEO's recommendation could result in similar negative impacts to income-eligible customers. Second, the Company continues to believe a good-faith

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[1119] PAWC St. 9, pp. 17-18.

[1120] CEO St. 1, pp. 6-7.

[1121] OCA St. 5, pp. 64-66.

[1122] CAUSE-PA St. 1, pp. 51-53.

[1123] *Id.*; *see also* CEO St. 1, pp. 6-7.

[1124] The Hardship Fund administrator, DEF, is developing a software enhancement that is expected to deploy at the start of the 2024-2025 program year. Once the enhancement is effective, customers will be able to apply for multiple Hardship Grants during a program year. *See* PAWC St. 14-R, p. 16.

payment requirement is appropriate because it ensures that customers eligible for the Hardship Fund are making a sincere effort to pay their utility bills. Third, in light of the Company's AMP implementation and proposed expansion of the BDP, PAWC believes it is premature to increase the annual Hardship Funds grant amount to $600 for water and wastewater. Finally, although the Company does not support expanding the Hardship Fund to customers above 200% of FPL in this case, when the BASA acquisition closes, PAWC has already agreed as part of the global BASA proceeding settlement to raise the Hardship Fund eligibility threshold to 250% of FPL.[1125] PAWC MB at 84.

Regarding overall funding, PAWC notes that utility payments to the Hardship Fund are voluntary shareholder contributions, and the Commission cannot order a utility to increase its contributions to the fund.[1126] While the Company has not proposed to increase shareholder funding levels in this proceeding, PAWC has committed to maintain current funding levels and has made a substantial proposal to expand the BDP to customers with incomes up to 200% of the FPL in this proceeding which will open up additional bill assistance to a large, new segment of customers (151%-200% of FPL).[1127] Finally, as noted earlier, PAWC committed to significantly increase funding for the Hardship Fund when the BASA acquisition closes. PAWC MB at 85.

2. I&E's Position

CAUSE-PA witness Geller recommended that PAWC increase its hardship fund by $1 million over its existing funding levels and that any unspent amount be rolled over to the budget for the following year.[1128] While witness Geller made other recommendations related to

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1125 PAWC St. 14-R, pp. 15-16; *see also* Tr. 2024.

1126 *See, e.g., Columbia Gas of Pa. Inc. Universal Serv. & Energy Conservation Plan for 2015-2018 Submitted in Compliance with 52 Pa. Code § 62.4*, Docket No. M-2014-2424462, 2015 WL 4309172, at *23 (Final Order entered July 8, 2015); *Nat'l Fuel Gas Distrib. Corps. Universal Serv. & Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4*, Docket No. M-2013-2366232, 2014 WL 2426998, at *4 (Final Order entered May 22, 2014).

1127 PAWC St. 14-R, p. 4.

1128 CAUSE-PA St. 1, p. 52.

the hardship fund, the only issue addressed by I&E witness Okum related to the funding source of the $1 million increase. In Direct testimony, PAWC witness Everette explains that the hardship program is funded by PAWC shareholders and donations from customers.[1129] I&E MB at 102.

I&E witness Okum noted that Mr. Geller did not specify a funding source for the increase of $1 million, so while she did not oppose the increase, she recommended that the Commission specify that the funding source continue to be PAWC shareholders.[1130] In surrebuttal testimony, CAUSE-PA witness Geller indicated his agreement with this recommendation.[1131] I&E MB at 102-103; I&E RB at 44.

3. OCA's Position

The purpose of a well-designed hardship fund program is to turn unaffordable bills into affordable bills for low-income customers. The Commission has broad discretion to authorize and modify hardship fund programs in setting just and reasonable rates.[1132] The OCA recommends two adjustments to the Hardship Grant program to improve affordability of rates. First, the maximum income eligibility for PAWC's hardship grants should be increased to 250% of the FPL.[1133] Second, amend the rules of the program to allow for multiple distributions (rather than a single distribution) to a customer in a year up to the existing maximum of $500 per year.[1134] While consumers with income between 200% and 250% of the FPL may not need a bill discount, these consumers are still likely to have a fragile income.[1135] Consumers between 200%

1129 PAWC St. 1, p. 12.

1130 I&E St. 1-R, p. 3.

1131 CAUSE-PA St. 1-SR, p. 4.

1132 66 Pa.C.S. § 1301; *Popowsky 1996* at 961.

1133 OCA St. 5, pp. 64-66.

1134 OCA St. 5, pp. 64-66.

1135 OCA St. 5, p. 65.

and 250% of the FPL generally fall below the Self-Sufficiency Standard.[1136] The Self-Sufficiency Standard varies by county, household size, and household composition but for Pennsylvania it varies from 200% to 300% of the FPL.[1137] Mr. Colton examined 27 different scenarios of various counties and household compositions and determined that 18 of the 27 scenarios had Self-Sufficiency Standard incomes between 200% and 250% of the FPL.[1138] OCA MB at 98.

As a part of the 2022 base rate case settlement at R-2022-3031672 & R-2022-03031673, PAWC agreed to "work with its CAAG members to develop a solution to allow an eligible customer to receive multiple Hardship Fund grant awards each year, up to the maximum grant amount of $500 for water and $500 for wastewater."[1139] Despite this condition to the settlement, a solution has not been achieved. Allowing multiple Hardship Grants to a single customer (up to the $500 maximum) would greatly assist consumers with fragile income that may be subject to numerous financial constraints throughout the year. Therefore, to assist these consumers, and to be consistent with the 2022 settlement, PAWC should be required to develop a method for allowing multiple Hardship Grants up to the maximum allowed amount.[1140] OCA MB at 98-99.

4. CAUSE-PA's Position

CAUSE-PA has several concerns with PAWC's existing Hardship Fund. CAUSE-PA avers that PAWC's Hardship Fund is extremely undersubscribed compared to need amongst low-income customers. Compared to relative need, very few customers have been awarded Hardship Fund grants in recent years.[1141] CAUSE-PA is also concerned that the

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1136 OCA St. 5, p. 65.

1137 OCA St. 5, p. 65.

1138 OCA St. 5, p. 66.

1139 OCA St. 5, p. 64.

1140 OCA St. 5, p. 64.

1141 CAUSE-PA St. 1, pp. 49: 15 – 50: 5.

average arrearage level of recipients of Hardship Funding regularly exceeds the maximum Hardship Fund grant limit of $500.[1142] CAUSE-PA is further concerned that PAWC's Hardship Fund continues to require an upfront payment of $50.[1143] Upfront payment requirements often post insurmountable barriers to receiving Hardship Fund assistance for customers with the most acute financial distress.[1144] Customers who are unable to make payments for several months due to financial hardships will be disqualified from receiving grant assistance, when such assistance is most needed.[1145] Moreover, upfront payment requirements do not test a customer's good faith, but instead pose unreasonable and significant obstacles to obtaining needed grant funding. CAUSE-PA MB at 52-54.

To address the need for additional Hardship Funding at both present and proposed rates, CAUSE-PA recommends several improvements to PAWC's Hardship Fund. First, CAUSE-PA recommends that PAWC increase its annual hardship funding by an additional $1 million over existing funding levels.[1146] Any unspent funds should be rolled over and added to the budget for the following year.[1147] This increase will help to offset the increased unaffordability driven by its proposed rate increase. If rates are increased, CAUSE-PA argues that the Commission must ensure that a greater level of funds are available to customers experiencing a financial hardship to prevent involuntary termination of water and wastewater services and the far-ranging consequences that result – whether through shareholder donations, rates, fundraising, or other means. CAUSE-PA MB at 54-55; CAUSE-PA RB at 8.

1142 CAUSE-PA St. 1, pp. 50: 12 – 51: 6.

1143 CAUSE-PA St. 1, pp. 51: 17 – 52: 10.

1144 *Id.*

1145 CAUSE-PA St. 1, pp. 51: 17 – 52: 10.

1146 CAUSE-PA St. 1, p. 52: 16-23.

1147 *Id.*

Second, PAWC should eliminate its upfront or “good faith” payment requirements for its Hardship Fund.[1148] Thus, if a customer meets all required eligibility requirements of PAWC’s Hardship Fund, they should qualify for Hardship Funding, even if they cannot provide an upfront payment. CAUSE-PA MB at 55

Lastly, CAUSE-PA recommends that that PAWC increase the maximum amount of its Hardship Fund grant from $500 to $600 for water and wastewater, respectively.[1149] This increase will help to address increasing average debt levels and, in turn, reduce already high levels of involuntary termination. Moreover, CAUSE-PA recommends that water and wastewater customers have the opportunity to receive multiple grants during a program year, up to the maximum grant amount for each service type.[1150] CAUSE-PA MB at 55

5. ALJs’ Recommendation

PAWC indicated that it is already working to implement multiple customer grants per year, as recommended by both OCA and CAUSE-PA, and PAWC did not oppose this recommendation. So, we recommend that the Commission adopt this proposal to take effect no later than the effective date of rates resulting from PAWC’s next general rate increase filed with the Commission. However, we recommend that the multiple grants be up to the existing $500 maximum, not to the proposed $600 maximum as proposed by CAUSE-PA. We agree with the Company that, in light of the Company’s AMP implementation and the expansion of the BDP, it is not necessary to increase annual Hardship Fund grant amounts to $600 at this time.

While we note PAWC’s opposition to the OCA proposal to expand the Hardship Fund to 250% of the FPL, we find that increased eligibility for a grant may help those who OCA identifies as having a fragile income. While such a customer may not, on average, need a bill discount because of their slightly higher income level, eligibility for such a grant may be a

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[1148] CAUSE-PA St. 1, p. 53: 1-5.

[1149] *Id.*

[1150] CAUSE-PA St. 1, p. 53: 6-17.

welcome lifeline to a consumer facing an unforeseen circumstance that is depleting their income. Accordingly, we recommend that the Commission adopt the OCA's proposal to expand the Hardship Fund to 250% of the FPL.

Regarding CAUSE-PA's recommendation that PAWC increase its Hardship Fund by $1 million over its existing funding levels, the Company noted that all contributions to the fund are voluntary from the shareholders. As the Hardship Fund is funded through these voluntary contributions from shareholders, the Commission cannot order PAWC to increase its contributions to the Hardship Fund. Accordingly, we recommend that the Commission reject CAUSE-PA's recommendation.

Regarding CAUSE-PA's recommendation that PAWC eliminate its $50 upfront good faith payment requirement to receive a Hardship Fund grant, we agree with CAUSE-PA that requiring this upfront payment may impose a significant obstacle to obtaining the grant. It is possible that a customer may otherwise qualify for PAWC's Hardship Grant but not have sufficient funds to make the $50 payment. That would be contrary to the purpose of the fund, which is to help a financially distressed customer. Accordingly, we recommend that CAUSE-PA's recommendation that PAWC be required to eliminate its $50 good faith payment requirement from the Hardship Fund no later than the effective date of rates resulting from PAWC's next general rate increase filed with the Commission.

D. Conservation Assistance

1. PAWC's Position

CAUSE-PA witness Geller recommends that PAWC develop and implement a comprehensive conservation and line repair/replacement program for all customers below 200% of the FPL. He further recommends the targeting of high-usage customers, annual reporting and coordination with other utility programs.[1151] PAWC MB at 85.

[1151] CAUSE-PA St. 1, pp. 63-64.

PAWC avers that Mr. Geller is attempting to impose a low-income usage reduction program ("LIURP") construct on PAWC that was established for electric distribution companies ("EDCs") and natural gas distribution companies ("NGDCs"). There are detailed LIURP regulations addressing many of the items recommended by Mr. Geller, including prioritizing high users, reporting, and utility coordination.[1152] As explained by PAWC witness Dean, LIURPs are required under Pennsylvania law for EDCs and NGDCs only and are part of their broad universal service plans.[1153] To implement a LIURP-type program, PAWC would have to hire additional staff and manage costs associated with repairing and replacing the leaking lines and infrastructure of low-income customers. PAWC argues that the PUC should not mandate the implementation of such a substantial new program in the absence of a change in law addressing low-income conservation obligations for water and wastewater utilities and providing for appropriate cost recovery.[1154] Moreover, PAWC opposes I&E's recommendation that the costs of a conservation assistance program be borne by shareholders, as the PUC does not have the authority to order a utility to contribute shareholder funds for such a program.[1155] PAWC MB at 85-86; PAWC RB at 70.

2. I&E's Position

CAUSE-PA witness Geller recommends the Company implement a comprehensive conservation and line repair and replacement program for all customer at or below 200% of the federal poverty level (FPL).[1156] I&E MB at 103.

1152 52 Pa. Code §§ 58.1-58.18.

1153 PAWC St. 14-R, p. 13.

1154 *Id.* at 13-14.

1155 *Cf. Nat'l Fuel Gas Distrib. Corps. Universal Serv. & Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4*, Docket No. M-2013-2366232, 2014 WL 2426998, at *4 (Final Order entered May 22, 2014)("the Commission does not have authority to specify the amount of shareholder funds utilities must contribute to hardship fund programs").

1156 CAUSE-PA St. 1, p. 63.

I&E witness Okum described two issues with this program. First, Mr. Geller does not specify a funding source, and second, Mr. Geller presents no budget or cap for this program.[1157] Therefore, Ms. Okum recommended that if approved, the program should be funded by shareholders and not by ratepayers.[1158] As Ms. Okum explained, these efforts will focus on water conservation inside individual customer homes and assistance with repairing and replacing service lines on individual customer property.[1159] Therefore, it would be inappropriate to ask all ratepayers to fund this program. CAUSE-PA witness Geller disagrees that these programs benefit individual customers stating that these programs have tangible benefits for all ratepayers because the program will help to control usage and high bills for homes in need of repairs, and assisting these customers to better control high usage will help to reduce universal service program costs.[1160] I&E MB at 103.

While there are some areas of disagreement, CAUSE-PA witness Geller never specifically disagrees with I&E witness Okum's recommendation that the program be funded by shareholders. I&E does not disagree that there may be some minor benefits that flow to all ratepayers as a result of this program, the fact remains that this program is largely focused specifically on individual customers' homes. Therefore, I&E continues to recommend that if the program is ultimately approved, it should be funded by shareholders rather than ratepayers. I&E MB at 103-104.

3. OCA's Position

PAWC's failure to adequately address the water conservation needs of its low-income customers forces its low-income consumers to either go deeper in arrears or front the expenses of water conservation investments themselves, even though these customers are facing water bill burdens or BTI Ratios of 6% to nearly 80% and are unlikely to be able to afford these

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1157 I&E St. 1-R, p. 4.

1158 I&E St. 1-R, p. 4.

1159 I&E St. 1-R, p. 4.

1160 CAUSE-PA St. 1-SR, pp. 5-6.

measures.[1161] In order to make rates more affordable, and therefore just and reasonable, the OCA recommends the adoption of OCA witness Mierzwa's customer charge recommendations[1162] and OCA witness Colton's recommendation that PAWC develop a plan to utilize U.S. Department of Energy's Weatherization Assistance Program and the natural gas and/or electric Low-Income Usage Reduction Program agencies as partners to develop and deliver water conservation investments to low-income customers.[1163] OCA MB at 99.

4. CAUSE-PA's Position

PAWC's H2O program offers limited water conservation assistance to H2O participants.[1164] Currently, the water conservation component of the H2O program includes water conservation kits containing basic, self-installed water-saving devices (low-flow showerhead, sink aerator, and toilet fill cycle diverter), leak detection kit, conservation tips and materials, and a water use calculator for qualifying customers.[1165] It appears that participation in this program is limited. Between 2020 and 2023, just 5,942 customers received a water conservation kit through this.[1166] Apart from its separate lead service line replacement program,[1167] the Company does not provide service line or leak repair assistance to any customers.[1168] The limitations of PAWC's conservation assistance hampers low-income customers' ability to reduce unnecessarily high usage and address leaks and other needed repairs, in turn driving unnecessarily high universal service program costs. CAUSE-PA MB at 58.

[1161] OCA St. 5, pp. 71-76.

[1162] OCA St. 5, p. 78.

[1163] OCA St. 5, pp. 73-75, 78.

[1164] CAUSE-PA St. 1, p. 60: 1-8, *citing* PAWC St. 1, p. 12.

[1165] PAWC St. 1, p. 13. FR IX.6 "Quality of Service", initial filing, p. 135.

[1166] CAUSE-PA St. 1, p. 60: 1-14.

[1167] *Id.*

[1168] CAUSE-PA St. 1, p. 60: 1-14.

CAUSE-PA recommends that the Commission require PAWC to develop and implement a comprehensive low-income water conservation and leak repair program. Specifically, PAWC should be required to work with its CAAG to develop this comprehensive assistance program no later than six months after the final order in this proceeding.[1169] The program should include comprehensive conservation measures that go beyond basic measures included in PAWC's current conservation kits to more comprehensive conservation measures - including basic plumbing and service line repair and replacement.[1170] As low-income households often lack the discretionary income to participate in rebate-style programs, the program should deliver services with no out-of-pocket or up-front costs for the measures or installation.[1171] CASUE-PA further recommends the proposed programs should also include annual reporting parameters of water savings and reductions to costs of low-income assistance programs resulting from this program.[1172] Additionally, CAUSE-PA recommends that this program set a maximum eligibility at 200% of the FPL, but target high usage low-income customers enrolled in the BDP.[1173] This will help to coordinate across PAWC's low-income assistance programs, and reduce costs of PAWC's BDP.[1174] CAUSE-PA MB at 60-61.

CAUSE-PA further recommends that that PAWC coordinate the delivery of services with energy reduction programs provided by electric and gas utilities in PAWC's service territory, including Low Income Usage Reduction Programs (LIURP), Act 129 programs, and other utility efficiency programs.[1175] Many utility conservation programs already provide a number of measures that increase water efficiency in customer's households, such as low flow

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1169 CAUSE-PA St. 1, p. 63: 3-11.

1170 *Id.*

1171 CAUSE-PA St. 1, p. 63: 12-22.

1172 CAUSE-PA St. 1, pp. 63-64.

1173 *Id.*

1174 *Id.*

1175 CAUSE-PA St. 1, p. 64: 4-11.

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faucets and shower heads.[1176] Partnering with other efficiency programs will help to coordinate conservation and repair efforts, and better ensure that participant customers can receive comprehensive measures to reduce their utility burdens.[1177] CAUSE-PA MB at 61.

CAUSE-PA avers that the lack of an explicit statutory requirement to operate a conservation program does not preclude the Commission from ordering PAWC to implement this important program. As discussed, a comprehensive usage reduction and line repair/replacement program would provide critical assistance to low-income customers with usage beyond their control, would help to control universal service program costs, and would reduce uncollectible costs as a result of terminations which affect all ratepayers. Indeed, as the Commission has long recognized, targeted conservation is an essential component of an effective universal service program portfolio. In order for universal service programs to achieve program goals, including improved bill payment behavior and reduced uncollectible expenses, these programs must deliver holistic services designed to address past, current, and future unaffordability through a combination of bill assistance, debt management, and conservation.[1178] These three components are critical to provide rate stability for low-income customers over the long term. CAUSE-PA MB at 62-63.

CAUSE-PA is not opposed to I&E's proposal to recover costs from shareholders, but also submits that costs for a public purpose program such as this are also appropriately recovered through rates. CAUSE-PA notes that pursuant to its proposal, it is not necessary for the Commission to determine the appropriate method of cost-recovery in the context of this proceeding. Rather, PAWC would develop a plan for cost recovery in its Petition. Regardless of the method of recovery, it is imperative that the Commission require PAWC to develop this critical program to help curtail unnecessarily high usage and associated universal service costs through the delivery of comprehensive and targeted conversation and line assistance. CAUSE-PA MB at 63.

[1176] *See* 52 Pa. Code § 58.14.

[1177] CAUSE-PA St. 1, p. 64: 4-11.

[1178] CAUSE-PA St. 1, p. 43: 1-6.

5. ALJs' Recommendation

CAUSE-PA recommends that the Commission require the Company, within six months of a final order in this proceeding, to implement a comprehensive conservation and line repair and replacement program for all customers at or below 200% of the FPL. CAUSE-PA even suggests that the Company coordinate the delivery of services with energy reduction programs provided by electric and gas utilities in PAWC's service territory, including LIURP programs. While such a program would certainly be beneficial to PAWC's ratepayers, we agree with the Company that LIURPs are only currently required under Pennsylvania Law for electric distribution companies ("EDCs") and natural gas distribution companies ("NGDCs"):

> This chapter requires covered utilities to establish fair, effective and efficient energy usage reduction programs for their low income customers. The programs are intended to assist low income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs. The programs are also intended to reduce the residential demand for electricity and gas and the peak demand for electricity so as to reduce costs related to the purchase of fuel or of power and concomitantly reduce demand which could lead to the need to construct new generating capacity. The programs should also result in improved health, safety and comfort levels for program recipients.[1179]

In the absence of regulations mandating LIURPs for water companies, we do not believe it would be appropriate to impose such a requirement on PAWC alone. We agree with PAWC that it would be inappropriate to mandate the implementation of a LIURP program in the absence of a change in the law requiring such a program for water and wastewater utilities, and which also establishes guidelines for cost recovery.

[1179] 52 Pa. Code §§ 58.1.

Accordingly, we recommend that the Commission reject CAUSE-PA's proposal that PAWC be required to implement a comprehensive conservation and line repair and replacement program for all customers at or below 200% of the FPL.

E. Low-Income Customer Outreach, Screening, and Intake

1. PAWC's Position

PAWC avers that it employs a robust, multi-prong approach to inform customers about the benefits provided by the H2O Program, including: direct customer communication (e.g., bill inserts, social media, websites), participation in PUC consumer education events and local community events (e.g., customer assistance program fairs and senior fairs), and Dollar Energy Fund ("DEF") outreach (e.g., public service announcements and community speaking).[1180] To target particular communities in need, such as areas with a high percentage of customers at or below 50% of the FPL, PAWC has successfully deployed an internal analytic process.[1181] In addition, if customers access the "myWater" customer portal, they will see information about bill assistance self-service options, as well as a link to information on PAWC's H2O Programs and instructions for how to apply.[1182] PAWC efforts have supported a significant increase in BDP enrollment. Notably, between December 2020 and November 2023, PAWC has increased participation in its BDP by over 30%.[1183] PAWC MB at 86.

OCA witness Colton and CAUSE-PA witness Geller both recommend new processes and requirements related to outreach. First, Mr. Colton would require PAWC to make personal contact with any confirmed low-income customer facing imminent disconnection of service for nonpayment, inform them of their right to enroll in the BDP, enroll them in the Company's AMP as an alternative to disconnection, and only offer a payment arrangement if a

[1180] PAWC St. 9, pp. 14-16; PAWC St. 14-R, p. 7.

[1181] PAWC St. 14-R, pp. 8-9.

[1182] PAWC St. 9-R, p. 11.

[1183] PAWC St. 14-R, p. 8.

customer is informed of the BDP and AMP and rejects enrollment.[1184] As part of that proposal, Mr. Colton recommends that "[d]isconnections to these customers should be paused until PAWC has received a response to the offer of BDP/AMP participation."[1185] Second, Mr. Geller recommends changes to PAWC's call handling procedures so that eligible payment-troubled customers are enrolled in the Company's H2O Programs before they are put on a payment arrangement.[1186] He also argues that PAWC customers should be screened at the time of move-in and during non-emergency calls for their income eligibility for the H2O Program.[1187] PAWC MB at 87.

PAWC agrees that low-income customers should be enrolled in PAWC's H2O Programs as early as possible, which is why when a customer calls in seeking payment assistance, customer care agents ("CCAs") are trained to direct customers to call DEF to enroll.[1188] The Company already adheres to the extensive Chapter 14 and Chapter 56 requirements regarding payment arrangements and service terminations and additionally places a 30-day collections and termination lock on the account of any customer who mentions they are working with an agency/partner for payment assistance.[1189] However, PAWC should not decide on behalf of the customer whether to apply for the H2O Programs or enter into a separate PAWC payment arrangement, as Mr. Geller and Mr. Colton propose. Further, customers should not be offered an indefinite stay on termination of service while they respond to an offer of BDP/AMP enrollment, as Mr. Colton proposes, as it would conflict with PAWC's statutory obligation to reasonably manage customer arrears.[1190] Finally, CCAs should not solicit income information from customers that they may consider private and/or confidential when contacting PAWC about

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[1184] OCA St. 5, pp. 59, 61.

[1185] *Id.*

[1186] CAUSE-PA Sts. 1, pp. 57-59 & 1-SR, pp. 10-12
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[1187] CAUSE-PA St. 1, pp. 56-58.

[1188] PAWC St. 9-R, p. 11.

[1189] PAWC St. 14-R, p. 11.

[1190] *Id.*; *see also* PAWC St. 9-R, p. 11.

issues unrelated to billing, such as move-ins and non-emergency service issues.[1191] PAWC MB at 87-88.

2. OCA's Position

The OCA asserts that PAWCs low-income customer outreach and intake for its BDP and AMP programs are currently inadequate.[1192] While the OCA recognizes that the AMP was just recently approved, and that it may be too early to assess the effectiveness of the enrollment in the AMP, the same cannot be said for the BDP. From November 2021 to October 2023, of the 60,660 confirmed low-income customers, PAWC has enrolled fewer than 13,700 or 17.7% of those customers into its BDP.[1193] This number is in stark contrast to PAWC's disconnection count of confirmed low-income customers from January 2021 to October 2023, which was 35,488, and the disconnection notice count of 412,518 sent to confirmed low-income customers.[1194] These confirmed low-income customers disconnections represent a total arrearage of $14,550,181 at the time of disconnection.[1195] In no month from January 2023-October 2023 did PAWC enroll more confirmed low-income customers than it disconnected.[1196] OCA MB at 99-100 .

OCA witness Colton provides the following recommendations for the Commission to require PAWC to adopt and undertake in order to provide adequate service:[1197]

> 1. The company should be required to make personal contact with any confirmed low-income customer facing termination of service for nonpayment and these customers should be informed of and given the right to enroll in the BDP and the AMP as an

1191 PAWC St. 9-R, pp. 11-12.

1192 OCA St. 5, pp. 54-63.

1193 OCA St. 5, p. 57.

1194 OCA St. 5, p. 57.

1195 OCA St. 5, p. 57.

1196 OCA St. 5, p. 69.

1197 OCA St. 5, pp. 54-63.

alternative to disconnection. Termination of these customers should be frozen until this contact takes place.

2. Moving forward, customers enrolled in the BDP should also be informed of the AMP and enrolled in it as well if they choose.

3. Customers should be informed of AMP and BDP and directed to enroll, where doing so would be more favorable to a customer and only offer a payment arrangement if the customer rejects the BDP and AMP after being informed of the programs' benefits.

4. The company should be required to make regular reports to Low Income Advocacy Groups (LIAG) regarding its steps towards utilizing speech patterns and linguistic analysis to review call center calls.

The Commission should require that these recommendations be implemented by PAWC as a part of any authorized rate increase to ensure that consumers are receiving adequate service.[1198] OCA MB at 100.

3. CAUSE-PA's Position

CAUSE-PA avers that, as currently structured, PAWC's universal service programs, including reduced rates available through PAWC's BDP, are not reasonably accessible to PAWC's low-income customers. PAWC's programs reach a fraction of PAWC's low-income customers.[1199] As of November 2023, only 25% of PAWC's estimated low-income customers and just 40% of PAWC's confirmed low-income customers (those known to be income eligible for the BDP) were actually enrolled in the BDP.[1200] Further, while 9,658 confirmed low-income customers were terminated for nonpayment in 2023, only 3,443 Hardship

[1198] 66 Pa. C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45 *PGW 2000* at *41-44.

[1199] CAUSE-PA St. 1, p. 54: 1-12.

[1200] *Id.*

Fund grants were issued during that period.[1201] As Mr. Geller explained in testimony, these figures undercount true need.[1202] CAUSE-PA MB at 63-64.

CAUSE-PA recommends that the Commission require PAWC to implement the several systematic solutions so that low-income customers can more easily enroll in available universal service programs before unmanageable debts are accrued.[1203] CAUSE-PA recommends that PAWC begin screening all new and moving customers for income level and eligibility for assistance at the time their service is established and on a periodic basis thereafter during non-emergency calls.[1204] Currently, PAWC obtains low-income status information from customers through its Ability to Pay (ATP) process, which is not triggered until a customer is already behind on their bills.[1205] Routinized income screening will help ensure that low-income customers are enrolled in available assistance programming before accruing unmanageable levels of debt. We similarly recommend that PAWC develop call scripting and checklists for its Customer Service Representatives (CSRs) to assist in screening customers for eligibility in its low-income assistance programs. Call scripting and checklists which require CSRs to routinely screen for eligibility for low-income assistance programming will help to systematize PAWC's enrollment in its low-income programs.[1206] Customers identified as low-income through this process should be provided a warm referral to PAWC's low-income assistance programs, and should not be required to provide duplicative information in order to enroll in these programs.[1207] CAUSE-PA MB at 65-66.

Additionally, CAUSE-PA recommends that PAWC should be required, in turn, to refer low-income customers to available assistance programs – including PAWC's BDP and

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1201 *Id.*

1202 *Id.*

1203 CAUSE-PA St. 1, p. 56: 1-15.

1204 CAUSE-PA St. 1, pp. 57: 10-21, 58: 1-13.

1205 CAUSE-PA St. 1, p. 57: 10-21.

1206 CAUSE-PA St. 1, p. 58: 14-21.

1207 *Id.*

Hardship Fund programs – prior to being placed on a payment arrangement. CAUSE-PA avers that this is not only sound public policy to prevent the accrual of unmanageably high debts but it is also mandated in Chapter 14.[1208] While payment arrangements can be an important tool to manage accrued arrears, they can also serve to exacerbate unaffordability – adding additional payment obligations to already unaffordable rates.[1209] It is essential that low-income customers are directed first to low-income assistance programs, which are specifically designed as an alternative path to collections for low-income households in recognition of the limitations of payment arrangements.[1210] CAUSE-PA MB at 66.

CAUSE-PA maintains that the Commission should require PAWC to revise its policies, procedures, and training materials to reflect that customers who are payment troubled or otherwise indicate that they cannot afford service should be screened for, referred to, and enrolled in PAWC's universal service programs – including both the Hardship Fund and BDP – prior to being placed in a payment arrangement.[1211] Similarly, PAWC should be prohibited from requiring customers to enter a payment arrangement as a condition to applying for or enrolling in assistance programs.[1212] PAWC should review DEF's policies and procedures to ensure that its administration of PAWC's assistance programs reflect these policies and procedures.[1213] CAUSE-PA MB at 67.

4. ALJs' Recommendation

Regarding Public Utility Duties, the Public Utility Code provides in pertinent part, the following:

[1208] 66 Pa.C.S. § 1410.1 (Duties of Public Utilities).

[1209] CAUSE-PA St. 1, pp. 58: 22 – 59: 7.

[1210] CAUSE-PA St. 1-SR, pp. 5-6.

[1211] CAUSE-PA St. 1, p. 59: 8-19.

[1212] *Id.*

[1213] *Id.*

> When a customer or applicant contacts a public utility to make a payment agreement as required by section 1410 (relating to complaints filed with commission), the public utility shall:
>
> > (1) Provide information about the public utility's universal service programs, including a customer assistance program.
> >
> > (2) Refer the customer or applicant to the universal service program administrator of the public utility to determine eligibility for enrollment in a program.[1214]

Pursuant to the Public Utility Code, PAWC has an affirmative duty to make customers and applicants aware of the availability of its universal service programs when they call to ask about a payment agreement.

It is clear that PAWC is following these guidelines when customers call seeking payment assistance, since PAWC CCAs are trained to direct customers to call DEF to enroll. Moreover, they are placing a 30-day collection and termination hold on a customer account if the customer mentions they are working with and agency or partner for payment assistance. Clearly, the Company is meeting its obligations by educating callers about the availability of assistance. It is then up to the customer caller to take the next step to apply for these available programs.

Accordingly, we recommend that the proposals offered by the OCA and CAUSE-PA regarding low-income customer outreach be rejected.

F. Data Collection, Reporting, and Monitoring of Low-Income Programs

1. PAWC's Position

Mr. Geller recommends that PAWC be required to establish quantitative outreach goals, update its low-income customer count annually, and set BDP enrollment benchmarks at 20% per year of estimated low-income customer counts until 75% enrollment is achieved. He

[1214] 66 Pa.C.S. § 1410.1.

further suggests that PAWC track and report relevant data concerning the Company's "progress" to its Customer Assistance Advisory Group ("CAAG") to help refine outreach efforts.[1215] PAWC MB at 88.

PAWC argues that the Commission should reject Mr. Geller's data collection and reporting recommendations for several reasons. First, the Company is making significant strides in reaching out to customers without formalizing outreach/enrollment benchmarks or quantitative goals. As noted earlier, PAWC's robust outreach strategy facilitated a 30% increase in BDP participation between December 2020 and November 2023. Second, the Company's H2O Programs are entering a period of transition. Currently, verbal income information is sufficient to enroll in the BDP, and the vast majority of BDP participants have not provided income documentation to the Company. In the near future, however, PAWC will be requiring customers to verify their income eligibility by submitting income documentation as part of the AMP and the BDP. The income verification requirement may result in some customers leaving the BDP while other customers may newly enroll as a result of new benefits under the AMP. It would not be reasonable to establish benchmarks when the enrollment levels are expected to fluctuate over the next few years.[1216] Finally, PAWC already has processes in place to regularly share relevant data with the CAAG. The Company holds quarterly meetings with the CAAG in an effort to enhance its low-income assistance programs and related outreach. Relevant to Mr. Geller's concerns, as part of the settlement of the AMP proceeding, PAWC committed to develop and share a draft communication and outreach plan for the AMP with the CAAG to obtain members' feedback.[1217] For these reasons, PAWC believes that it is unnecessary to impose additional benchmarks or reporting requirements to motivate PAWC to continue to advance its H2O Programs. PAWC MB at 88-89.

Regarding the OCA's recommendation for customer satisfaction surveys, PAWC avers that this is unnecessary since PAWC and the Customer Service Organization ("CSO")

[1215] CAUSE-PA St. 1, pp. 47-48.

[1216] PAWC St. 14-R, pp. 9-10.

[1217] *Id.* at 9.

already identify trends from customer feedback provided via transaction surveys, including from customers seeking bill assistance, requesting payment arrangements, raising inability-to-pay issues, or responding to disconnection notices.[1218] PAWC RB at 71-72.

2. OCA's Position

In order to assist in the performance of its low-income customer assistance programs, PAWC should be required to introduce customer satisfaction surveys targeting (1) customers seeking to enroll in the BDP and/or AMP; (2) customers seeking to enroll in a deferred payment arrangement; (3) customers expressing a difficulty paying, or an inability-to-pay their bills in a full and timely manner; and (4) customers responding to the pending (or already completed) disconnection of service for nonpayment.[1219] The results of these targeted surveys should be compiled, provided to the PAWC LIAG at each quarterly meeting, and subject to discussion at LIAG should a member of the group have questions or identify issues flowing from the targeted surveys.[1220] By compiling information that can be used to assess how PAWC might improve its customer satisfaction or improve its collections outcomes from customers, PAWC will improve its management control of costs and revenues, improve the stability of its earnings, and thus control the need for future rate relief.[1221] OCA MB at 101.

3. CAUSE-PA's Position

As CAUSE-PA previously noted, PAWC's low-income assistance programs are undersubscribed. Roughly 75% of PAWC's estimated low-income customers, and roughly 60% of households *known* to be eligible for PAWC's BDP are not enrolled.[1222] Tens of thousands of PAWC's low-income customers remain unenrolled in available assistance programs based on

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[1218] PAWC St. 9-R, p. 10.

[1219] OCA St. 5, p. 123.

[1220] OCA St. 5, p. 123.

[1221] OCA St. 5, pp. 123-24.

[1222] CAUSE-PA St. 1, p. 47: 1-8.

these figures. CAUSE-PA urges the Commission to order improvements to PAWC's data collection and reporting requirements to better ensure that low-income customers can enroll in the BDP and other available universal service programs. CAUSE-PA MB at 69.

First, CAUSE-PA asserts that PAWC should be required to update its estimated low-income customer count on an annual basis, and to work with the Commission's Bureau of Consumer Services to identify an appropriate method for estimating its low-income customer count based on current US Census Bureau data.[1223] CAUSE-PA avers that it is unclear whether PAWC has updated its estimated low-income customer count since its 2022 rate proceeding utilizing appropriate data from the U.S. Census Bureau.[1224] As Mr. Geller explains "[a]n accurate count of estimated low-income customers is essential to determining existing need in PAWC's service territory."[1225] CAUSE-PA MB at 69.

Second, CAUSE-PA asserts that the Commission should require PAWC to set target enrollment benchmarks for its BDP.[1226] CAUSE-PA recommends enrollment targets set at 20% per year of PAWC's estimated low-income customer counts, until the Company reaches at least 75% enrollment of this estimated group.[1227] CAUSE-PA MB at 69.

Third, CAUSE-PA recommends that the Commission require PAWC to establish quantitative and qualitative goals related to affirmative customer outreach for the purpose of enrolling low-income customers in the BDP and AMP, which is scheduled to launch later this year.[1228] This affirmative outreach should include telephone contacts, mailings, and electronic communications such as text or email (with customer consent).[1229] In addition, PAWC should be required to track and report on its progress in reaching these goals to its CAAG to help refine

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1223 CAUSE-PA St. 1, pp. 47-48.

1224 *Id.*

1225 CAUSE-PA St. 1, p. 47: 11-18.

1226 CAUSE-PA St. 1, p. 48.

1227 CAUSE-PA St. 1, p. 48: 1-3.

1228 CAUSE-PA St. 1, p. 48: 4-11.

1229 *Id.*

outreach efforts based on CAAG feedback.[1230] In line with Mr. Geller's recommendations, PAWC should expand its CAAG membership to include "a broader array of community voices from all corners of PAWC's expansive service territory."[1231] Moreover, regular tracking, assessment, and reporting of metrics and goals to the CAAG will allow it to better assess the status of low-income assistance programs and provide improved feedback related to these programs. Without regular collection and assessment of these key metrics, CAUSE-PA is concerned the CAAG's ability to provide robust and meaningful feedback will be merely performative. CAUSE-PA MB at 70; CAUSE-PA RB at 13-14.

CAUSE-PA believes that these recommendations are essential to ensure that the Commission, parties, and stakeholders are able to accurately and precisely evaluate PAWC's low-income assistance programs, and their ability to assist PAWC's low-income customers afford and stay connected to water/wastewater services. CAUSE-PA RB at 14.

4. ALJs' Recommendation

Regarding the OCA's recommendations for customer satisfaction surveys, we agree with the Company that such a requirement would be unnecessary. The Company and the CSO are already identifying trends from customer feedback from transaction surveys. Additional customer satisfaction surveys are not necessary. Accordingly, we recommend that the Commission reject OCA's recommendation that the Company be required to introduce customer satisfaction surveys.

CAUSE-PA made several recommendations regarding data collection and reporting recommendations for PAWC. PAWC opposes these recommendations, noting that it is making significant strides with its customer outreach efforts, program enrollment levels may fluctuate, and because the Company already has processes in place to regularly share relevant data with CAAG. However, as noted by CAUSE-PA, PAWC's low-income assistance programs

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1230 *Id.*

1231 *Id.*

are undersubscribed, and the purpose of their recommendations is to better ensure that low-income customers can enroll in the BDP and other available universal service programs. Considering the testimony provided at the public input hearings from customers struggling to pay their bills, ensuring that low-income customers can enroll in these programs is of great importance. Accordingly, we recommend that the Commission approve CAUSE-PA's recommendations regarding data collection and reporting.

G. Comprehensive Written Universal Service Plan

1. PAWC's Position

OCA witness Colton recommends that PAWC develop a written universal service plan and file that plan with the Commission's Bureau of Consumer Services ("BCS").[1232] Mr. Geller also recommends requiring PAWC to file a universal service plan ("USP") and accompanying petition within one year of the final order in this case, and every five years thereafter.[1233] PAWC MB at 89.

PAWC contends that, similar to Mr. Geller's low-income conservation proposal addressed previously, these USP recommendations are attempting to impose elements of the broad universal service framework on PAWC in the absence of any actual universal service requirements or mechanism for cost recovery applicable to water or wastewater utilities. Pennsylvania law requires EDCs and NGDCs to have USPs and also provides for the full recovery of their USP costs.[1234] As explained by PAWC witness Dean, the time, resources, and cost of maintaining and revising a USP are significant, often requiring the establishment of new departments at utilities that are entirely focused on the implementation of these plans. At this time, PAWC's assistance programs are administered by DEF and supported by 1.5 full-time employees. Establishment of a full-scale USP would require a dramatic increase in resources

1232 OCA St. 5, pp. 67-68.

1233 CAUSE-PA St. 1, p. 56.

1234 *See, e.g.*, 52 Pa. Code § 54.74; 52 Pa. Code § 62.41; 66 Pa.C.S. § 2804(8) ("The commission shall establish for each electric utility an appropriate cost-recovery mechanism which is designed to fully recover the electric utility's universal service and energy conservation costs over the life of these programs.").

devoted by PAWC commensurate with those of EDCs and NGDCs. The PUC should not mandate the development and implementation of a universal service plan in the absence of any universal service requirement (and corresponding full and timely cost recovery) for water and wastewater utilities under Pennsylvania law.[1235] PAWC MB at 89-90.

2. I&E's Position

Both OCA witness Roger Colton and CAUSE-PA witness Geller recommend that PAWC should be required to develop a written comprehensive universal service plan, which OCA recommends be filed with the Bureau of Consumer Services for review by interested parties.[1236] I&E MB at 104.

Currently, only electric and natural gas utilities are required to develop universal service plans.[1237] As a result, I&E witness Okum recommends that rather than a singular requirement for PAWC to file a universal service plan, if the Commission wishes to implement the requirement for a universal service plan for water and wastewater utilities, that it be done on a statewide basis.[1238] PAWC witness Dean similarly notes that currently only electric and natural gas companies are required to create a universal service plan. Ms. Dean further states that "PAWC should not be required to adopt a universal service plan unless Pennsylvania law is modified to expand this requirement … to water and wastewater utilities."[1239] I&E MB at 104.

In addition, I&E witness Okum explains, that even if the Commission were to approve a universal service plan for PAWC on a standalone basis, low-income benefits flow through base rates. Therefore, even if periodic reports were filed with BCS and reviewed by

[1235] PAWC 14-R, pp. 12-13.

[1236] CAUSE-PA St. 1, p. 56 and OCA St. 5, p. 67.

[1237] 52 Pa. C.S. § 69.261.

[1238] I&E St. 1-R, pp. 5-6.

[1239] PAWC St. 14-R, p. 12.

interested parties, in that particular forum there would be no avenue to make any necessary changes to base rates.[1240] I&E MB at 104-105.

Therefore, I&E recommends that, rather than singling out PAWC to provide a written universal service plan, if the Commission believes that universal services plans are appropriate for water and wastewater utilities, it provide statewide guidance for all water and wastewater utilities as it has done in the gas and electric industries. I&E MB at 105; I&E RB at 45.

3. OCA's Position

The OCA maintains that PAWC should be required to develop a comprehensive written plan to be filed with the Commission's BCS as an element of fundamental prudent and adequate program planning and management of its low-income customer assistance programs.[1241] While the OCA recognizes that PAWC is not required by regulation to prepare and file a written plan, the need to prepare and file a written plan is based on the need for efficient and adequate service to low-income customers and planning of expenditures for related programs.[1242] OCA MB at 101; OCA RB at 63.

4. CAUSE-PA's Position

CAUSE-PA notes that there is currently no single, unified document for the Commission, customers, or other stakeholders to review the benefits and requirements of PAWC's universal service programming. Accordingly, CAUSE-PA strongly recommends that the Commission order PAWC to develop and submit a comprehensive Universal Service Plan for periodic Commission review and approval. Currently, as a jurisdictional water/wastewater

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[1240] I&E St. 1-R, pp. 5-6.

[1241] OCA St. 5, pp. 67-72; OCA St. 5SR, pp. 30-31.

[1242] OCA St. 5, p. 68.

utility, PAWC is not required to submit periodic plans related to their low-income assistance programming for Commission review and approval.[1243] CAUSE-PA MB at 72.

Failure to maintain a cohesive plan leaves a substantial gap for consumers and utility advocates, and makes it difficult for the Commission to properly oversee PAWC's administration of Commission-approved universal service programming. The Commission, consumers, and stakeholders must rely on PAWC's tariffs, prior Settlement agreements, former Commission Orders, and other piecemeal information from websites and other outreach materials to determine important program rules, polices, and procedures for the Company's programs.[1244] This is a substantial customer service issue – hampering consumers' ability to learn about an enroll in assistance programs.[1245] Consequently, CAUSE-PA recommends that the Commission require the Company to file a Universal Service Plan and an accompanying Petition for Commission review and approval within one year of the final Order in this case, and every five years thereafter, in line with the requirements of regulated EDCs and NGDCs in the Commonwealth.[1246] CAUSE-PA MB at 72.

CAUSE-PA further recommends that the Commission require PAWC to include a detailed consumer education and outreach plan (CEOP) within its universal service plan filing. The continued undersubscription of PAWC's low-income assistance programs evidences a need for coordinated, systematic approaches to consumer outreach and education related to PAWC's low-income assistance programs.[1247] This CEOP should be developed with input from parties and stakeholders through PAWC's CAAG, and should include how PAWC plans to specifically promote and coordinate around each of its low-income assistance program components.[1248] The CEOP should be tailored to the varying demographics of the Company's broad service territory,

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1243 CAUSE-PA St. 1, p. 56: 1-15.

1244 *Id.*

1245 *Id.*

1246 *Id.*

1247 CAUSE-PA St. 1, pp. 56-57.

1248 *Id.*

should include how PAWC will perform targeted outreach to specific vulnerable consumer groups and communities, and should identify efforts to educate and enroll customers at or below 50% of the FPL in assistance programming.[1249] So that PAWC, stakeholders, and the Commission can gauge the success and progress of efforts under the CEOP, CAUSE-PA recommends that the CEOP also include measurable goals and associated metrics to assess those goals.[1250] CAUSE-PA MB at 72-73.

5. ALJs' Recommendation

Both the OCA and CAUSE-PA each separately recommend that PAWC be required to file a comprehensive Universal Service Plan with the Commission. Additionally, both parties, as well as I&E, recognize that currently, only electric and natural gas utilities are required to develop universal service plans.

Previously, we recommended that the Commission reject CAUSE-PA's proposed comprehensive conservation and line repair and replacement program because there are no regulations mandating LIURPs for water companies, and it would not be appropriate to impose such a requirement on PAWC alone. The result should be the same here. Accordingly, we recommend that the Commission reject OCA's and CAUSE-PA's recommendation that PAWC be required to file a comprehensive Universal Service Plan with the Commission.

In the alternative, should the Commission determine that OCA's and CAUSE-PA's proposal has merit, we recommend that the Commission adopt I&E's suggestion that if the Commission wishes to implement the requirement for a universal service plan for water and wastewater utilities, that it be done on a statewide basis.

1249 *Id.*

1250 *Id.*

H. Administration of PAWC's Low-Income Assistance Programs

1. PAWC's Position

CAUSE-PA witness Geller argues that PAWC does not exercise appropriate levels of oversight over the Company's low-income program administrator, DEF. He further recommends that PAWC be required to establish clear metrics for auditing DEF-handled accounts, including monthly review of metric data and auditing reports, and also conduct and submit periodic third-party evaluations on its low-income assistance program in-line with the six-year evaluation conducted for EDC and NGDC universal service programs.[1251] PAWC MB at 90.

Mr. Geller's recommendations are unnecessary in light of existing PAWC processes and would result in significant new administrative costs. As explained by PAWC witness Dean, PAWC regularly meets with DEF regarding program administration and addresses any issues as they arise. PAWC has full access to information regarding DEF fund balances, application processing, application status and standard reports through DEF's Grant Management System. DEF provides PAWC with standard periodic reports on application and grant activities, and the Company can ask DEF for additional reports as needed. PAWC avers that new auditing metrics and costly third-party audits are not necessary in order for PAWC to have appropriate oversight over DEF's activities.[1252] Additionally, PAWC notes that the third-party auditing Mr. Geller recommends is required for EDCs and NGDCs, not water and wastewater utilities, as part of their broad universal service obligations under Pennsylvania law.[1253] For all these reasons, PAWC maintains that the Commission should reject Mr. Geller's proposals concerning metrics and auditing of DEF activities. PAWC MB at 90-91.

[1251] CAUSE-PA St. 1, pp. 64-67.

[1252] PAWC St. 14-R, p. 14.

[1253] 52 Pa. Code §§ 54.76 and 62.6.

2. OCA's Position

The OCA notes that it is generally supportive of the testimony filed by CAUSE-PA's Witness Geller regarding his recommendations for the administration of PAWC's Low-Income Assistance Programs. OCA MB at 101.

3. CAUSE-PA's Position

PAWC's low-income assistance programs are currently administered by Dollar Energy Fund (DEF). CAUSE-PA witness Geller raised concerns through testimony that PAWC is not exercising appropriate oversight over DEF as its program administer.[1254] PAWC appears to have the following processes for oversight of DEF's administration of its low-income assistance programs: access to DEF's grant management system to review information regarding fund balances, application processing, application status, and standard reports; [1255] access to standard reports containing information related to applications and grant activities; and the authority to request additional reports, [1256] certain data related to DEF's call centers, including data related to hold times and hours/days of call center operations.[1257] CAUSE-PA MB at 75.

CAUSE-PA is concerned that PAWC does not appear to have systems in place to regularly monitor DEF's administration of its programs to ensure that standards are being met so that eligible customers can easily enroll in available assistance programs.[1258] Similarly, PAWC does not have formal policies, assessments, or audits of DEF's administration of its low-income assistance programs.[1259] CAUSE-PA MB at 75.

[1254] CAUSE-PA St. 1, p. 64: 12-20.

[1255] *Id.*

[1256] *Id.*

[1257] *Id.*

[1258] CAUSE-PA St. 1, p. 65: 1-12.

[1259] *Id.*

To address CAUSE-PA's concerns, CAUSE-PA recommends that PAWC should be required to implement systematic and regular processes for monitoring, screening, and oversight related to its low-income assistance programs. PAWC should establish and implement clear metrics for auditing DEF's administration of its programs. These performance metrics should be implemented within six months of the final order in this proceeding and should be developed in consultation with PAWC's CAAG. PAWC should review metric data and reports from DEF on a monthly basis to ensure that DEF is meeting established standards and benchmarks.[1260] Targeted trainings or other remedial action should be taken if issues are discovered through these processes.[1261] CAUSE-PA MB at 77-78.

CAUSE-PA further recommends that the Commission require PAWC to conduct and submit periodic third-party evaluations to the Commission on its low-income assistance programs, in line with the six-year program evaluation period required of EDCs and NGDCs, with the first evaluation due a year from the date of the final order in this proceeding.[1262] PAWC should work with the Commission's BCS to identify an appropriate and qualified third-party universal service program evaluator to conduct this evaluation.[1263] This evaluation should include, at minimum, analysis of data from the specific metrics implemented by PAWC for monitoring of DEF's program administration, relevant enrollment, collections and bill payment data, and all other relevant program metrics maintained by PAWC and DEF, together with participant surveys and other proven evaluative tools.[1264] These periodic evaluations should be discussed with PAWC's CAAG and provided to parties to this proceeding.[1265] CAUSE-PA MB at 78.

1260 CAUSE-PA St. 1, pp. 66-67.

1261 *Id.*

1262 52 Pa. Code § 54.76 (Electric); 52 Pa. Code § 62.6 (Natural Gas).

1263 CAUSE-PA St. 1, p. 67: 6-17.

1264 *Id.*

1265 *Id.*

CAUSE-PA disagrees that any increase costs which may result from this enhanced oversight would require a rider recovery mechanism.[1266] DEF's administration of PAWC's universal service programs are already recovered through rates.[1267] Any costs associated with appropriate oversight of DEF's administration should be recovered in the same manner as other program costs and does not require a separate rider recovery mechanism. CAUSE-PA MB at 79-80.

4. ALJs' Recommendation

We agree with PAWC that CAUSE-PA's recommendations are unnecessary. PAWC notes that it regularly meets with DEF regarding program administration and addresses issues as they arise. Moreover, PAWC has access to all necessary information, and DEF provides PAWC with standard periodic reports, and the Company can ask DEF for additional reports as needed. Moreover, as the Company notes, such third-party auditing is required for EDCs and NGDCs as part of their universal service obligations under Pennsylvania law, not water and wastewater utilities.

Accordingly, we recommend that the Commission reject CAUSE-PA's proposal that PAWC be required to implement systematic and regular processes for monitoring, screening, and oversight related to its low-income assistance programs.

1266 CAUSE-PA St. 1-SR, pp. 21: 12 – 22: 15.

1267 *Id.*

XIV. SERVICE QUALITY AND CUSTOMER SERVICE ISSUES

A. Customer Service Performance

1. PAWC's Position

PAWC explains that the Customer Service Organization ("CSO") supports the customer service needs of PAWC and the other American Water utility subsidiaries, including customer call handling and billing.[1268] The CSO is focused on providing customers with convenient access to information and responsive, personal service to drive high satisfaction ratings.[1269] PAWC and the CSO leverage multiple sources of customer feedback to monitor customer satisfaction, including targeted surveys taken immediately after phone, field and customer portal interactions and a customer satisfaction survey of all PAWC customers conducted quarterly.[1270] This approach allows PAWC and the CSO to stay abreast of changing customer expectations and align performance goals to meet those customer needs.[1271] PAWC MB at 92.

The CSO consistently seeks ways to improve the customer experience and maintain high levels of customer satisfaction.[1272] As PAWC witness Degillio testified, the CSO's hiring and recruitment efforts over the past several years have reduced wait times and the call abandonment rate for customers that do not utilize the courtesy call back ("CCB") feature.[1273] In addition, the CSO continually refines the "myWater" portal to help PAWC

1268 PAWC St. 9, pp. 2-5.

1269 *Id.* at 7-8.

1270 *Id.*

1271 *Id.*

1272 PAWC St. 9, pp. 9-13.

1273 PAWC Sts. 9, pp. 9-13 & 9-R, pp. 3-4.

customers efficiently manage their account online and endeavors to expand adoption of paperless billing to increase customer engagement and, ultimately satisfaction.[1274] PAWC MB at 92-93.

a. Call Handling

PAWC maintains that OCA witness Alexander narrowly and erroneously focuses her evaluation of CSO performance on wait times and call abandonment rather than the overall customer experience. PAWC witness Degillio explained that the highest driver of customer service that impacts overall satisfaction is first contact resolution.[1275] Other important customer satisfaction indicators that are not related to call handling performance that Ms. Alexander fails to consider include quality and value of service, proactive communications, ease of paying bills, and conservation.[1276] Accordingly, PAWC concludes that Ms. Alexander's opinion that overall customer service is poor based exclusively on call answering metrics is flawed. PAWC MB at 93.

Additionally, PAWC asserts that Ms. Alexander compares the CSO's performance with data reported to BCS by electric and gas utilities who use different definitions and metrics for call center performance than PAWC. PAWC notes that the "service level" presented in the BCS Customer Service Performance Reports that Ms. Alexander relied on for her proposed performance standards is the "percentage of calls answered within 30 seconds by an [interactive voice response ("IVR") system] or a [customer service representative] ready to render assistance."[1277] PAWC contends that this is significantly different than the calculation of CSO service levels which includes only calls by an agent who is ready to render assistance.[1278] Calls answered by the IVR and customers who elected a courtesy call back ("CCB") were excluded from the call center performance data presented in PAWC's prior base rate cases and

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1274 PAWC St. 9, pp. 10-11.

1275 PAWC St. 9, pp. 7-8.

1276 *Id.*

1277 *Aqua Pa, Inc, Peoples Natural Gas Co. LLC, and Peoples Gas Co. LLC Management and Operations Audit*, Docket Nos. D-2020-3018771, D-2020-3018773, and D-2020-3018774 (Apr. 2021), p. 130.

1278 PAWC St. 9-R, pp. 4-5.

the Company's most recent management audit.[1279] PAWC believes that if calls answered by the IVR and/or customers using the CCB feature were reflected in the CSO's performance data, service levels would move toward the metrics recommended by Ms. Alexander. PAWC MB at 94.

Moreover, PAWC maintains that performance levels of the CSO and third-party call handling agencies are already monitored on a daily basis.[1280] PAWC leadership routinely reviews CSO performance trends with CSO leadership to develop strategies for improvement.[1281] The Service Company determines staffing levels of third-party call handling agencies based on the performance of individual agents against known performance indicators set forth in the service agreements with those contractors.[1282] PAWC MB at 94.

Lastly, PAWC argues that any concerns about CSO compliance with Pennsylvania consumer protection requirements[1283] are unfounded. The CSO conducts extensive training of its agents in Pennsylvania rules and regulations before they are permitted to handle calls from PAWC customers.[1284] This training includes an 80-page training module and a knowledge test, and the CSO has a robust quality assurance process focused on customer care agents' ("CCA") adherence to Chapter 14 of the Code and Chapter 56 of the PUC's regulations.[1285] Ms. Alexander has not provided any evidence that CCAs who completed the training she believes is deficient are not following Pennsylvania regulations when handling PAWC calls. PAWC MB at 95.

[1279] *Id.*

[1280] *Id.* at 6-8.

[1281] *Id.*

[1282] *Id.*

[1283] OCA St. 6, pp. 23-24.

[1284] PAWC Sts. 9, pp. 6-7 & 9-R, pp. 8-9.

[1285] PAWC St. 9-R, pp. 8-9.

b. Responses to Customer Complaints

PAWC received Formal Complaints in this proceeding addressing, among other things, water quality and field service–related issues. PAWC witness Runzer described the typical causes of, and PAWC responses to, water quality complaints (e.g., hard water, colored water, odor, taste) and also explained how field-service concerns are handled.[1286] OCA witness Terry L. Fought highlighted individual customer public input hearing testimony about water quality and service issues and recommended that PAWC respond to the issues raised.[1287] Mr. Runzer described the individual Company outreach to the customers identified in Mr. Fought's supplemental direct testimony,[1288] and Mr. Fought had "no issue about PAWC's response" and appreciated the Company's follow up with those customers.[1289] PAWC MB at 95.

Finally, regarding OCA witness Alexander's recommendation requiring a professionally conducted root-cause analysis of complaint trends and a report on findings including identification of trends, evaluation, steps to reform or avoid repeated trends, and internal steps to take to enforce action where needed within three months and quarterly updates to shareholders,[1290] PAWC witness Dean explained that Ms. Alexander's concerns were unfounded in light of the Company's robust complaint analysis process. Ms. Dean confirmed that PAWC: (1) analyzes every customer Complaint it receives (other than informal mediation complaints that do not involve any allegation of wrongdoing by the Company), to determine the contributing factor, if any; (2) makes a root-cause determination for every such customer Complaint; (3) logs a root cause for each such complaint, where a contributing factor is identified; (4) generates reports reflecting customer Complaint root causes; (5) analyzes root-

[1286] PAWC St. 2-R, pp. 13-16.

[1287] OCA St. 7 Supp., pp. 2-7.

[1288] PAWC St. 2-R, pp. 18-53.

[1289] OCA St. 7-SR, p. 7.

[1290] OCA St. 5, pp. 11-18, 44.

cause trends; and (6) regularly discusses root-cause trends with the CSO and the other appropriate business units.[1291] PAWC MB at 96.

c. Billing

A few PAWC customers expressed concern at the public input hearings over either not receiving paper bills for the month of December 2023 or receiving mailed bills late.[1292] PAWC confirmed with the CSO's print vendor that all 2023 bills were timely printed and mailed to customers that have not enrolled in paperless billing.[1293] As a result of its investigation, the Company concluded that this issue was caused by postal service delays.[1294] Notably, PAWC agreed to, as a courtesy, automatically credit a late fee charge assessed in January to any Scranton area customer who did not have any late fees in the last quarter of 2023.[1295] Any Scranton area customers who do not meet these requirements for an automatic credit, and who may have been assessed a late fee in January due to postal service delays, may still call and request that the late fee be credited.[1296] PAWC MB at 96-97.

OCA witness Alexander recommends that PAWC document the frequency of inconsistent billing periods, and what steps can be taken to avoid them, as well as how customers can avoid payment and budgeting difficulties with inconsistent billing periods.[1297] PAWC counters that Ms. Dean explained that PAWC complies with Commission's regulations regarding billing frequency[1298] and PAWC's billing periods are between 26 and 35 days, consistent with the regulation at 52 Pa. Code § 56.2. PAWC also offers budget billing as a tool for customers to

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[1291] PAWC St. 14-R, pp. 21-24.

[1292] *See* C.O.S. St. 1, p. 6; State Rep. Kyle T. Donahue St. 1, p. 6.

[1293] PAWC St. 9-R, p. 18.

[1294] *Id.*

[1295] Tr. 1976.

[1296] *Id.* 1976-77

[1297] OCA St. 6 Supp, p. 2; OCA St. 6-SR, p. 26.

[1298] 52 Pa. Code § 56.11

manage their monthly bill amount.[1299] PAWC maintains that there is no basis for the Commission to require additional reporting and documentation when PAWC's billing periods are consistent with PUC regulations. PAWC MB at 97.

2. OCA's Position

The OCA argues that PAWC's call center performance is inadequate and has been inadequate for some time based on: (1) high call-answer times (percentage of calls answered within 60 seconds and within 30 seconds are inadequate); (2) high call abandonment rate; and (3) high complaint rates.[1300] PAWC's inadequate call center performance provides support for the OCA's recommendations to disallow certain call center expenses and reject the Company's managerial performance adder to the ROE. In addition, the Commission should require that the OCA's recommendations to improve call center and complaint handling performance be implemented by PAWC as a part of any authorized rate increase to ensure that consumers are receiving adequate service.[1301] OCA MB at 102.

The OCA notes that PAWC outsources its call center and customer service functions to its affiliate, the Service Company, and asserts that it does not provide appropriate managerial oversight thereof.[1302] PAWC has failed to conduct a proper root-cause analysis or any analysis to determine trends and failed to take corrective actions related to proven inadequate call center performance.[1303] This failure in management leads to continued poor call center performance with no noticeable steps towards solving the problems.[1304] OCA MB at 102.

[1299] PAWC St. 14-R, pp. 24-25.

[1300] OCA St. 6 at 11-12, 19-24.

[1301] 66 Pa. C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

[1302] OCA St. 6 at 7-10.

[1303] OCA St. 6, pp. 13-17; OCA St. 6SR, pp. 11-12.

[1304] OCA St. 6, pp. 11-12, 19-24; OCA St. 6SR, pp. 11-12.

In response to poor call center performance as well as a 2023 Management Audit that documented PAWC's poor call center performance for 2019-2022,[1305] OCA witness Alexander recommends the Commission require the following measures be adopted by PAWC to ensure adequate call center performance:

- PAWC be required to adopt specific performance standards requiring PAWC to comply with an annual average answering of 80% of PAWC calls within 30 seconds and a 4% call abandonment rate.

- PAWC be required to have a professionally conducted root cause analysis of all customer complaint data and track complaints and analysis for specific call centers, whether operated by the service company or a third-party contractor and report on findings, including identification of trends, evaluation, steps to reform or avoid repeated trends, and internal steps taken to take proper internal enforcement action where needed within 3 months and quarterly updates to stakeholders.

- PAWC should be required to provide managerial oversight to the Service Company's CSO's call center performance, including but not limited to conducting audits of the Service Company's CSO's performance based on defined metrics and conducting a proper root cause analysis of is internal disputes and BCS related findings and update its findings and conclusions on a quarterly basis.

- PAWC should be required to reform its Pennsylvania-specific "test" and training for customer representatives to address the full scope of Chapter 56 and Chapter 14 rights and remedies. PAWC should be required to routinely audit and evaluate the performance of third-party contractors to ensure that this training is being followed.[1306]

The OCA further notes that, in its Opinion and Order releasing the 2023 Management Audit Report to the public, the Commission directed PAWC to file a new or amended affiliated interest agreement ("AIA") that accurately reflects the current company structure and the intercompany

[1305] *Pa. PUC, Pennsylvania American Water Co. Management and Operations Audit*, D-2022-3035217 (Issued Oct. 2023), Section XI, Customer Service. The report presented call center performance from 2019-2022.

[1306] OCA St. 6, pp. 18-19, 43-45.

transactions occurring between PAWC and the Service Company.[1307] Accordingly, Ms. Alexander further recommends that:

- Any new or amended affiliate interest agreements should contain arms-length contractual provisions that grant PAWC contractual protection to perform audits of the Service CSO performance based on defined metrics, and use specific center complaint data to determine, in part, penalties and payments under the contract.

- Any new or amended affiliate interest agreements should contain arms-length contractual provision that (1) requires the Service Company in its contracts with third-party contractors to reduce its fees owed to the third-party contractor so that the Service Company is not responsible for payment of fees related to services that fail to meet Metrics, and (2) the Service Company will not allocate costs to PAWC for services that fail to meet call center metrics. A plan to promptly achieve this objective should be required as a condition of any rate increase at no additional expense to PAWC customers due to the long-standing failure to reach reasonable performance requirements.[1308]

The OCA avers that the Commission should require that these recommendations to PAWC's affiliated interest agreement with its Service Company be implemented by PAWC as a part of any authorized rate increase to ensure that consumers are receiving adequate service.[1309] OCA MB 104-105.

Additionally, in response to PAWC's arguments about the usage of IVR to answer calls within 30 seconds, Ms. Alexander explained that the Commission's customer Service Performance Report states that the measurement reported is the wait time after a caller enters the que, not the time before the IVR system picks up.[1310] Accordingly, the OCA believes

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[1307] OCA St. 6, p. 17.

[1308] OCA St. 6, p. 18.

[1309] 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

[1310] OCA St. 6SR, p. 8.

that it is reasonable to hold the Company to the same standard of 80% of calls answered within 30 seconds as electric and gas utilities.[1311] OCA RB at 64-65.

Regarding PAWC's position that that CSO's are already monitored on daily basis, and that the Service Company can set staffing levels of third-party call handling agencies based on performance,[1312] **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** OCA RB at 65.

Regarding PAWC's claims of a "robust complaint analysis process," the OCA maintains that PAWC has failed to conduct an adequate root cause analysis.[1314] The complaint logs that the Company alleges constitute a root cause analysis merely indicate that complaints are being tracked, but not analyzed or result reviewed to determine necessary changes. Moreover, the OCA asserts that "every attempt to obtain that type of actual use of the raw data in these tracking logs did not result in any further internal documents."[1315] OCA RB at 65-66.

3. ALJs' Recommendation

Over the course of twelve public input hearings, we heard testimony from 217 witnesses who will be affected by PAWC's proposed rate increase. Of those 217 witnesses, only a handful of witnesses raised customer service issues. The majority of testimony provided focused on affordability of service, and the water quality.

1311 OCA St. 6SR, p. 9.

1312 PAWC MB at 94.

1313 OCA St. 6, p. 20 (Confidential), 6SR, p. 10.

1314 OCA St. 6, pp. 14-17; OCA St. 6SR, pp. 11-15.

1315 OCA St. 6SR, p. 15.

PAWC is required by law to provide its customers with adequate and reasonable service. Section 1501[1316] of the Public Utility Code provides, in relevant part:

> Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.

While Section 1501 requires PAWC to provide its customers with adequate and reasonable service, it does not require PAWC to provide perfect service.

Although there were several customers who offered testimony during the public input hearings regarding issues they experienced contacting PAWC to report various issues, we don't believe that is a sufficient showing to warrant directing PAWC to implement changes to its call-handling procedures. Similarly, upon review of the record, we find that PAWC has adequate procedures in place to track and respond to customer complaints. Moreover, we find that PAWC's daily monitoring of the CSO and third-party call handling agencies constitutes sufficient oversight. Accordingly, we recommend that the measures proposed by the OCA be rejected.

As it pertains to customer billing and those customers who did not receive paper bills for December 2023 and were subsequently assessed late fees, we believe that PAWC's response to credit these late fee charges to the customers' accounts to be a reasonable and appropriate response. Moreover, it is important to note that this problem arose due to a postal service delay rather than because of any action or in-action on PAWC's part.

[1316] 66 Pa.C.S. § 1501.

B. Tenant Issues and Protections

1. PAWC's Position

CAUSE-PA witness Geller contends that PAWC should be required to track and report on granular metrics to ensure compliance with the Discontinuance of Services to Leased Premises Act ("DSLPA"), including: (1) what notices are provided to each tenant occupied account before termination for nonpayment by landlord/owner; (2) when and how notices are provided; (3) whether and how many tenants asserted their rights to continued service; (4) the number of accounts improperly coded as non-tenant accounts; (5) notices of termination/disconnection sent to accounts improperly coded as non-tenant and if the account was terminated/disconnected for non-payment while coded as a non-tenant account; and (6) partial payments made by tenants seeking to continue their service (including partial payments, amounts paid, and whether payments were sufficient to continue service).[1317] PAWC MB at 97-98.

As explained by PAWC witness Dean, PAWC already fully complies with the DSLPA and the Company's processes are not inconsistent with the Utility Services Tenants Rights Act ("USTRA"), which, as Mr. Geller notes,[1318] applies to municipal corporations and municipal authorities rather than regulated utilities.[1319] Importantly, the DSLPA places the obligation on the landlord ratepayer to notify the utility whether the premises being served are for rental purposes. It does not place the obligation on the utility to investigate each property in its service territory to determine if a landlord ratepayer property is occupied by a tenant.[1320] PAWC MB at 98.

[1317] CAUSE-PA St. 1, pp. 72-73.

[1318] *Id.* at 75.

[1319] PAWC St. 14-R, p. 18.

[1320] 66 Pa.C.S. § 1529.1(a); *see also* PAWC St. 14-R, p. 18.

2. CAUSE-PA's Position

CAUSE-PA notes that the DSLPA sets forth the rights of tenants who receive services by a regulated utility for which service is listed in a landlord's name.[1321] DSLPA protects a tenant's right to continued utility service where: (1) the utility terminates service to a leased premises due to nonpayment by the landlord ratepayer;[1322] or, (2) the landlord ratepayer seeks to voluntarily disconnect service to a leased premises and tenants are still residing at the property.[1323] Tenants have the right to enforce DSLPA rights through the Commission's informal and formal complaint process.[1324] DSLPA ensures that tenants are notified of a pending termination and allows them to maintain service without assuming the debts of their landlord. As such, DSLPA is designed to protect tenants from the loss of service as a result of the actions or inaction of their landlord.[1325] CAUSE-PA MB at 80-81.

CAUSE-PA has raised concerns that PAWC does not have adequate policies and processes in place to monitor its compliance with DSLPA.[1326] First, CAUSE-PA avers that it is unclear whether PAWC is complying with notice requirements pursuant to the DSLPA.[1327] PAWC indicates that it does not track and cannot report on the number of tenant-occupied accounts that received notice of an involuntary termination or voluntary disconnection pursuant to DSLPA.[1328] CAUSE-PA MB at 83.

CAUSE-PA further indicates that it is similarly unclear whether PAWC is properly coding tenant-occupied accounts, as the Company does not track issues related to

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1321 66 Pa.C.S. Ch. 15 Subch. B.

1322 66 Pa.C.S. § 1527.

1323 66 Pa.C.S. § 1523(b).

1324 66 Pa.C.S. § 1523(a)(3).

1325 CAUSE-PA St. 1, p. 68: 1-6.

1326 CAUSE-PA St. 1, p. 70: 9-18.

1327 *Id.*

1328 CAUSE-PA St. 1, pp. 70-71.

identification and coding of tenant accounts.[1329] PAWC indicates that it has a process to update account status to a tenant account. [1330] However, CAUSE-PA avers that PAWC does not track details related to the coding of tenant accounts, including accounts that were miscoded as non-tenant despite PAWC having received information that the account and/or property was tenant occupied.[1331] PAWC has a significant number of tenant-occupant accounts who had their service involuntarily terminated or disconnected as a result of a landlord/property owner request over the last several years. With these numbers, CAUSE-PA finds it concerning that PAWC does not have a process in place to determine the extent to which tenant accounts are accurately coded, and to remediate issues related to the same.[1332] Again, CAUSE-PA asserts that it is impossible to determine whether PAWC is consistently and accurately coding tenant accounts, and in turn providing appropriate notice to landlord ratepayers and tenants, without more accurate tracking.[1333] CAUSE-PA MB at 84.

CAUSE-PA further avers that it is unclear whether PAWC is properly managing partial payments, as required by DSLPA. PAWC indicates that they are unaware of partial payments by tenants seeking to exert their rights pursuant to the DSLPA. [1334] It is unclear whether no partial payments were in fact made amongst the approximately 14,000 tenants terminated or voluntarily disconnected at the request of a landlord/property owner between 2020 and 2023, or whether PAWC does not regularly track these partial payments.[1335] Without this data, CAUSE-PA believes it is impossible to determine whether the partial payment are being returned to customers, pursuant to DSLPA requirements. CAUSE-PA MB at 84-85.

[1329] CAUSE-PA St. 1, pp. 71: 6-19.

[1330] *Id.*

[1331] *Id.*

[1332] *Id.*

[1333] *Id.*

[1334] *Id.*

[1335] CAUSE-PA St. 1, p. 72: 1-10.

Based on these concerns, CAUSE-PA recommends that PAWC make several reforms to its policies and procedures related to the DSLPA. Specifically, CAUSE-PA avers that PAWC should be required to implement regular tracking, and be able to report on, the following:

- What notices are provided to each tenant-occupied account prior to termination for nonpayment by a landlord/property owner, or voluntary disconnection at the request of a landlord/property owner.

- When these notices are provided, and how the notices are provided.

- Whether – and how many – tenants exerted their rights to continued services pursuant to DSLPA.

- The number of accounts improperly coded as non-tenant accounts, despite PAWC receiving information that the property is reasonably likely to be tenant occupied.

- Notices of termination/disconnection provided to any accounts improperly coded as non-tenant, and if the account was terminated for nonpayment or voluntarily disconnected while coded as a non-tenant account. PAWC should also be required to track what remediation is taken on affected accounts.

- Partial payments made by tenants seeking to continue services pursuant to the DSLPA. Specifically, PAWC should be required to track (1) the number of partial payments made by tenants seeking to continue services pursuant to the DSLPA; (2) the amounts of these partial payments; (3) whether these partial payments were sufficient so that tenants could maintain services pursuant to the DSLPA; and (4) if insufficient to maintain services, whether and to what extent these payments were returned to tenants.

CAUSE-PA asserts that this data should be reported to PAWC's Customer Assistance Advisory Group on a quarterly basis and included in PAWC's next rate filing.[1336] CAUSE-PA MB at 85.

[1336] CAUSE-PA St. 1, pp. 72-73.

CAUSE-PA further notes that PAWC stipulated in its 2020 rate case that, "PAWC will ask all applicants for service whether the property is or will be occupied by a tenant."[1337] Therefore, at a minimum, PAWC is under an obligation to abide by the terms of its previously agreed to stipulation. Moreover, CAUSE-PA avers that it is impossible to determine whether, or to what extent, compliance issues are occurring without sufficient data tracking and reporting. CAUSE-PA believes that this lack of data tracking likely masks compliance issues requiring remediation. CAUSE-PA MB at 86-87.

3. ALJs' Recommendation

CAUSE-PA has raised concerns that PAWC doesn't have adequate policies and procedures in place to monitor its compliance with DSLPA. We disagree.

As noted by the Company, PAWC relies on information from landlords, tenants and field service representatives to determine if a property is reasonably likely to be tenant occupied and coded as such. Through this process, PAWC currently has over 20,000 residential accounts coded as tenant occupied. If delinquent, these accounts go through the 37-day notice process prior to any service termination as required by the DSLPA and USTRA. PAWC utilizes the same processes prior to terminating water services to landlord ratepayer properties at the request of municipal sewer providers as PAWC utilizes for terminations of service that are initiated by PAWC. The notices that the affected tenants receive provide directions on how to contact PAWC in order to continue water service, and tenants do not need to rely on the municipal authority to contact PAWC to assert their rights.[1338]

We find that the steps taken by PAWC to determine whether a service address should be coded as landlord-ratepayer/tenant occupied to be sufficient. Accordingly, we find that CAUSE-PA's proposals are unnecessary and should be rejected.

1337 *Pa. Pub. Util. Comm'n v. PAWC, Joint Stipulation of PAWC and CAUSE-PA*, Docket No. R-2020-3019369, ¶ 4 (filed Nov. 13, 2020).

1338 PAWC St. 14-R, pp. 18-19; OCA MB at 98-99.

C. Water Services Act and Section 12.1(H) of Water Tariff

1. PAWC's Position

Both CAUSE-PA witness Geller and OCA witness Alexander recommend changes to PAWC's policies and procedures regarding termination at the request of a non-Company wastewater provider to better ensure compliance with the Water Services Act ("WSA"). PAWC avers that its current procedures for implementing the WSA's requirements comply with the law and address several of the concerns identified by Mr. Geller and Ms. Alexander. PAWC MB at 99.

Prior to terminating service under the WSA, a 10-day termination notice must be mailed or posted at the property. If during that 10-day period, the person liable for the unpaid charges delivers a written statement under oath to the municipal wastewater provider averring a just defense to all or part of the claim, the water service is not to be shut off until the claim has been judicially investigated. As explained by PAWC witness Dean, PAWC's PUC-approved contracts with sewer providers require the sewer provider to issue the appropriate termination notice to customers. PAWC has a process in place to verify that the municipal sewer provider has complied with all of its obligations under the WSA, which includes requiring a responsible municipal official to certify both that the notice was provided and the lack of any just defense filing.[1339] In addition, while not a requirement of the WSA, PAWC recently modified the template that municipal entities submit in order to request water service shut-offs to include a confirmation that the municipality has not received a medical certification for the relevant premise.[1340] Other process-related recommendations are either inconsistent with the WSA (Ms. Alexander's recommendation the PAWC post its own notice) or unnecessary in light of PAWC's verification process (Mr. Geller's recommendation that PAWC require actual proof of mailing and posting of the termination notice).[1341] PAWC MB at 99-100.

[1339] PAWC St. 14-R, p. 19.

[1340] *Id* at 20.

[1341] *Id* at 19-20.

Additionally, the OCA proposes to limit Tariff Section 12.8 to municipal entities covered by the WSA and other non-Company wastewater providers with a "Commission-approved agreement."[1342] As Ms. Dean explained, however, PAWC's Joint Services Agreement with Aqua was not approved by the Commission. After the Agreement was submitted, rather than approving (or disapproving) it, the Commission instead directed the parties to seek approval of tariff changes related to provisions affecting customers – which is exactly what PAWC has done in this case.[1343] The OCA is therefore incorrect that its recommendations are compatible with the Joint Services Agreement. Accordingly, the Commission should reject the OCA's proposed changes to Tariff Section 12.8. PAWC RB at 77-78.

2. OCA's Position

OCA maintains that the Commission should adopt the proposed tariff language put forth by OCA Witness Alexander in her surrebuttal testimony.[1344] In the Company's direct, it requested to add a new tariff subsection dealing with termination of service to PAWC customers on behalf of "non-company" wastewater providers pursuant to the Water Services Act. As originally filed, the proposed tariff language posed the risk of harming consumers and creating additional confusion regarding the process based on the proposed language of the tariff and placement of the subsection within the tariff.[1345] In surrebuttal, Ms. Alexander put forth further revisions to the Company's proposed Section 12.8 that will protect consumers, while still allowing the Company to uphold its Joint Service Agreement with Aqua PA.[1346] Strikeouts in the following represent OCA's recommended deletions and underlined text represents recommended language:

1342 OCA St. 6-SR, pp. 17-18.

1343 Tr. 2020-21.

1344 OCA St. 6SR, pp. 17-19.

1345 OCA St. 6, pp. 26-31.

1346 OCA St. 6SR, pp. 18-19.

12.8 Termination by Company for Non-Payment of Wastewater Service to a Non-Company Wastewater Provider

~~The Company may also terminate service in accordance with the terms of any agreement between the Company and a non-Company wastewater provider for non-payment of wastewater service when due upon prior notice by the non-Company wastewater provider.~~ The Company may terminate a customer's water service due to the customer's non-payment of charges owed to a non-Company wastewater provider, provided that: (1) the Company has an effective agreement with the non-Company wastewater provider pursuant to the Water Services Act or Act of April 14, 2006, codified at 53 P.S. §§ 3102.501 – 3102.507, or a Commission-approved agreement with the non-Company wastewater provider; and (2) the customer received prior notice from the non-Company wastewater provider of the past due amounts owed to the non-Company wastewater provider.

Following the issuance of termination notice by the non-Company wastewater provider, the Company will not ~~move forward with termination of~~ terminate the customer's water service upon notification to the Company by the non-Company wastewater provider that the customer does either of the following: (1) disputes the termination for non-payment; or (2) ~~if the customer~~ produces a medical certification.

Upon termination, the Company will post the termination notice at the customer's premises. The Company's termination notice shall provide the following information in conspicuous format and plain language: (1) a statement that PAWC terminated the customer's water service due to the customer's non-payment of non-Company wastewater charges; (2) a statement that the termination of service is not the result of customer's non-payment of water charges owed to PAWC; (3) the name and contact number of the non-Company wastewater provider; (4) the contact information for the Company; and (5) a citation to Section 12.8 of PAWC's Water Tariff and the weblink for accessing the Company's tariff webpage.[1347]

[1347] OCA St. 6SR, pp. 18-19.

OCA maintains that the Commission should require that these recommendations be implemented as a part of any authorized rate increase to ensure that consumers are receiving reasonable service.[1348] OCA MB at 105-106; OCA RB at 68-69.

3. CAUSE-PA's Position

PAWC provides water service to certain households that receive wastewater from separate wastewater utilities, such as a local municipal authority.[1349] For these customers, CAUSE-PA witness Geller expressed concern that PAWC's current processes for terminating water service at the request of a sewer utility do not adequately protect tenants.[1350] To address these concerns, CAUSE-PA recommends that PAWC be required to reform its policies and procedures to better monitor compliance with the Water Services Act prior to termination of services at the request of a sewer utility. CAUSE-PA MB at 87, 89.

CAUSE-PA asserts that PAWC should be required to obtain actual proof of notice before terminating service at the request of a third-party sewer utility, including proof of mailing and proof of posting.[1351] Additionally, according to CAUSE-PA, PAWC should revise its policies and procedures to ensure compliance with the Water Services Act, and consult with its CAAG related to recommended revisions to incorporate members' feedback in good faith. PAWC should also update its training materials and agreements to reflect these revisions. Lastly, PAWC should undertake review of its policies and procedures for termination of service at the request of a sewer utility, to ensure that tenants are not required to rely on the sewer utility to act on their behalf to maintain service.[1352] If a tenant informs PAWC that their residence is tenant occupied and termination of PAWC water service is pending at the request of a sewer utility, PAWC should be required to immediately suspend termination and ensure that the

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1348 *See* 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

1349 CAUSE-PA St. 1, p. 73: 19-24.

1350 *Id.*

1351 CAUSE-PA St. 1, p. 75: 1-5.

1352 CAUSE-PA St. 1, p. 76: 12-23.

requirements of the Water Services Act are being met. If the tenant's service is already off, PAWC should be required to immediately reconnect service until the provisions of USTRA have been followed pursuant to the Water Services Act. PAWC should also be required to amend its policies, procedures, training materials, and agreements to reflect these changes, and to consult with its CAAG related to these revisions so that member's feedback can be considered.[1353] CAUSE-PA MB at 89-90.

CAUSE-PA maintains that PAWC has an affirmative duty to confirm that the Act has been followed prior to terminating services based on a request of a sewer utility – rather than rely on sewer authorities to monitor their own compliance pursuant to Water Services Act requirements.[1354] The improvements to PAWC's policies and procedures related to the Water Services Act will help to ensure compliance with the Water Services Act, so that tenants can access these important protections prior to service termination at the request of a sewer utility. CAUSE-PA MB at 90-91.

4. ALJs' Recommendation

We agree with OCA that its proposed tariff language should be adopted. We find that the additional language will remove possible confusion from the originally as-filed language. Moreover, the additional notice requirements will provide further protections for consumers. As noted by the OCA, the additional language will not only protect customers, but it will also allow the company to uphold its Joint Services Agreement with Aqua PA. Accordingly, we recommend that the Commission adopt the OCA's proposed tariff language. However, the term "a Commission-approved agreement" should be replaced with "an effective agreement" to recognize that the Commission does not approve agreements under the Water Services Act or Section 12.1 of PAWC's Water Tariff.

1353 *Id.*

1354 CAUSE-PA St. 1, pp. 74-75.

Regarding CAUSE-PA's proposals to ensure that PAWC is following the Water Services Act prior to terminating services based on a request of a sewer utility, we do not believe that these additional steps are necessary. We find that PAWC's process described by the Company is sufficient to verify that the sewer provider has complied with all of its obligations under the WSA. We agree with PAWC that CAUSE-PA's recommendations are unnecessary in light of PAWC's verification process. Accordingly, we recommend that the Commission reject CAUSE-PA's proposals.

D. American Water Resources

1. PAWC's Position

For over two decades, American Water Resources ("AWR") has offered optional products and services, such as water line and sewer line protection plans, to PAWC customers. After enrolling with AWR, customers are charged a monthly fee so that if their water or sewer line breaks, AWR will deploy a contractor to fix the water or sewer line under the warranty program at minimal up-front cost to the customer.[1355] PAWC customers can choose the convenience of including these charges on their PAWC bill or be billed directly by AWR.[1356] AWR's warranty plans are viewed favorably by customers who want the convenience and certainty of minimizing the up-front cost expenditures associated with a future water or sewer line repair.[1357] PAWC MB at 101.

It is standard industry practice for utilities both within and outside of the Commonwealth to partner with providers of these types of warranty services.[1358] By way of example, AWR offers similar services to residential water and sewer utility customers in 42

1355 PAWC St. 9-R, p. 12.

1356 *Id* at 13.

1357 *Id* at 12.

1358 *Id* at 16.

other states and the District of Columbia.[1359] The Commission's regulations recognize utilities long-standing practice to bill "charges for other than basic service," which include, among other things, "line repair programs and appliance warranty programs."[1360] Consistent with the Commission's regulations, PAWC includes charges for these services as a separate line item on customers' monthly bills.[1361] In addition, these services are entirely optional to customers, i.e., customer payments are applied to PAWC's charges first and a customer's choice not to pay for AWR's services does not result in any service termination efforts by PAWC.[1362] PAWC MB at 102.

Although American Water sold its interest in AWR in December 2021, which ended the affiliate relationship between AWR and PAWC, the day-to-day relationship between PAWC and AWR remains the essentially the same by virtue of a Utility Agreement executed by PAWC and AWR at the time of the sale.[1363] PAWC continues to adhere to all Commission regulations related to the billing of AWR charges. **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** PAWC's relationship with AWR as a partner who provides optional warranty products and services to its customers has remained unchanged over the last two decades. PAWC MB at 102.

Noting that OCA has raised several concerns related to PAWC's relationship with AWR, apparently as a result of American Water's sale of its ownership interest in AWR, PAWC maintains that its billing arrangement with AWR is not discriminatory. AWR's warranty

1359 *Id.*

1360 52 Pa. Code § 56.13.

1361 *Id.*

1362 52 Pa. Code §§ 56.23, 56.83(3).

1363 *See* CONFIDENTIAL OCA Ex. BA-8.

1364 PAWC St. 9-R, pp. 12-14.

products and services are not utility services subject to PUC jurisdiction.[1365] PAWC's billing of AWR products and services is entirely consistent with the Commission's regulations for non-basic services. Moreover, the Utility Agreement states that PAWC is not precluded from offering similar on-bill services to another entity.[1366] PAWC's billing relationship with AWR is not discriminatory because no other entity is seeking access to PAWC's bills; therefore, PAWC is not providing any preference or advantage to AWR. PAWC has maintained the same billing relationship with AWR for over twenty years; the OCA's concerns about discrimination at this point are entirely without merit. PAWC MB at 103-104.

Regarding the OCA's suggestion that PAWC should have some monitoring responsibility over AWR's charges, PAWC avers that this should be rejected. The prices of non-basic products and services are beyond the scope of the Code and not subject to Commission jurisdiction. PAWC and the PUC have no authority to influence AWR's prices or other terms under its contracts with customers. PAWC passes through AWR's contract pricing on its customer bills as a separate line item and no customers' service is terminated for non-payment of such charges.[1367] If a customer no longer wants to pay for AWR's products and services, the customer can stop paying for them with no negative repercussions on their water or wastewater service.[1368] For these reasons, PAWC maintains that it is entirely reasonable that PAWC does not monitor or audit AWR's charges to customers. PAWC MB at 105.

PAWC further contends that the use of PAWC's name and logo is outside the scope of this proceeding. PAWC notes that this has been an ongoing practice for over twenty years. AWR has historically used PAWC's trademark and logo for marketing purposes, which is standard industry practice when a utility partners with another entity to offer warranty products and services. Similar arrangements exist between other major Pennsylvania utilities and a

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[1365] *See PPL Elec. Utils. Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386 (Pa. Cmwlth. Ct. 2006) (holding that an unregulated energy consulting service offered by an unregulated affiliate of PPL is not a regulated public utility service and that competition among unregulated services is not an objective of the regulatory scheme of the Public Utility Code).

[1366] CONFIDENTIAL OCA Ex. BA-8, p. 2.

[1367] PAWC St. 9-R, p. 15; *see also* OCA Ex. BA-6.

[1368] PAWC St. 9-R, p. 15.

competitor of AWR, HomeServe, which also uses the utility name and logo to market warranty services and products to residential utility customers in the Commonwealth.[1369] Notably, the Commission recently rejected the OCA's request to prohibit FirstEnergy Pennsylvania Electric Company's on-bill arrangement with HomeServe for non-basic products and services where the exact same claims were raised by Ms. Alexander – that the use of the utility name and logo for marketing purposes is misleading.[1370] Disclosures are included on all marketing materials explaining that AWR is not affiliated with PAWC, its products and services are optional, and AWR's prices are not determined by PAWC.[1371] Accordingly, AWR's long-standing use of the Company's name and logo for marketing purposes does not provide a basis to investigate, prohibit or otherwise prescribe PAWC's arrangement with AWR under the Utility Agreement. PAWC MB at 105-106.

The OCA further contends that **[BEGIN CONFIDENTIAL]** [redacted]

[1369] *Id.* at 14.

[1370] FE-PA Order, 2021 WL 3840884, at *10, *12, *19.

[1371] PAWC St. 9-R, p. 15.

[1372] OCA St. 6, pp. 33-35, 38, 41.

[1373] *See* PAWC St. 9-R, pp. 16-17; CONFIDENTIAL OCA Ex. BA-8, §§ 1.1(d)(i), (v).

[1374] *See* PAWC St. 9-R, p. 17; Agreement dated Jan. 1, 1989, between PAWC and Service Company; Docket No. G-880131.

[redacted] **[END CONFIDENTIAL]** PAWC MB at 106.

Lastly, PAWC notes that it included $659,624 of miscellaneous revenue from AWR for the on-bill billing arrangement in the revenue requirement for the FPFTY in this case.[1375] Even though OCA witness Alexander recommends that PAWC suspend services under the Utility Agreement, the OCA did not remove the revenues associated with these services.[1376] The suggestion that PAWC not be permitted to provide a service, but the Commission should act as if PAWC will still receive revenues for that service, is unreasonable and inconsistent with proper ratemaking.[1377] PAWC MB at 107.

2. OCA's Position

The OCA avers that PAWC is engaging in deceptive and discriminatory billing and marketing practices for non-utility "protection services" of customer-owned service lines and in-home plumbing provided by PAWC's ex-affiliate, AWR, to the detriment of consumer interests. This relationship is enabled by: (1) a written billing and marketing agreement between PAWC and AWR; and (2) a licensing agreement between American Water Works Company, Inc. ("AWK") and its ex-subsidiary, AWR, both of which were entered into at or around the time AWK sold off AWR on or around December 9, 2021. The OCA believes that this is a serious customer protection issue, and the OCA alleges that it is inadequate and unreasonable utility service under Section 1501. The OCA recommends that the Commission promptly initiate an investigation of this program and direct PAWC to suspend/pause new customer enrollments until the Commission concludes its investigation.[1378] The Commission should adopt these

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1375 PAWC St. 1-R, p. 20.

1376 OCA Sts. 2, pp. 79-80 & 6, p. 41.

1377 PAWC St. 1-R, p. 21.

1378 OCA St. 6, p. 41; OCA St. 6SR, pp. 23-24.

recommendations as a part of any authorized rate increase to ensure that consumers are receiving adequate and reasonable service.[1379] OCA MB at 106.

The OCA explains that AWR's exclusive marketing and billing arrangement with PAWC is discriminatory to any other provider of these services in PAWC's service territory. The potential effect of discriminatory practices is that consumers pay more for warranty services than might be available from other competitive providers of warranty services in PAWC's service territory. AWR is able to promote its services to PAWC customers and collect the fees for its services in a manner not available to any other provider for these non-basic services. OCA is concerned about a corporate policy that allows an unregulated entity to **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**, and the impact on customer expectations about the privacy of their customer information that PAWC as the utility has.[1380] OCA RB at 72.

The OCA avers that PAWC performs on-bill billing for AWR's services and products. Utility billing is subject to Section 1501 and Chapter 14 of the Code and Chapter 56 of the Commission's regulations. Additionally, the OCA believes that AWR stands to benefit from the false impression given to PAWC's customer as it gives it an unfair advantage over competitors offering similar warranty services to customers in the unregulated market for warranty services and induces consumers to buy from AWR under the false impression that they are buying from a trusted brand.[1381] Moreover, **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**, providing a marketing advantage that is deceptive and misleading.[1382] To that point, the OCA notes that some customers testified during public input

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1379 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

1380 *See* OCA St. 6, p. 40.

1381 OCA St. 6, p. 39.

1382 OCA St. 6SR, pp. 22-23.

hearings to having originally assumed these entities were connected legally.[1383] OCA RB at 72-74.

PAWC notes that **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL.]** The OCA recommends that this assertion be included in its requested investigation of this arrangement, including whether the 1989 Agreement between PAWC and the Service Company actually contemplates such services and it is still reasonable. OCA RB at 74-75.

Lastly, the OCA notes that it has not challenged PAWC's $659,624 miscellaneous revenue claim related to AWR because it is fully substantiated it benefits consumers by offsetting proposed revenue requirement.[1384] Accordingly, the OCA maintains that the $659,624 miscellaneous revenue claim should remain included in the revenue requirement for the FPFTY.[1385] OCA RB at 75.

3. ALJs' Recommendation

We disagree with the OCA's contention that PAWC is engaging in deceptive and discriminatory billing and marketing practices regarding services provided by its affiliate, AWR. As noted by the Company, if a PAWC customer enrolls with AWR, they can choose to either have their charges appear on their bill or be billed separately. If the customer chooses to have these charges appear on their PAWC bill, the charges appear as a separate line-item on the bill. Moreover, as noted by the Company, disclosures appear on all marketing materials explaining that AWR is not affiliated with PAWC, that its products and services are optional, and PAWC does not determine AWR's pricing. Lastly, if the customer fails to pay the AWR charges, their PAWC services will not be terminated.

1383 OCA St. 6 Supp, pp. 2-5.

1384 OCA St. 2SR, pp. 49-50.

1385 OCA St. 2SR, p. 50.

It is also important to consider that PAWC's relationship with AWR has remained unchanged for over 20 years. Moreover, the Utility Agreement between PAWC and AWR provides that the business relationship between PAWC and AWR is not exclusive, and PAWC is not prohibited from offering similar on-bill services to a competitor of AWR's. It would be discriminatory if PAWC denied offering such services to a competitor, but there hasn't been such a showing, and as averred by PAWC, no other entity is seeking access to PAWC's bills.

We also agree with PAWC that OCA's suggestion that PAWC should have some monitoring responsibility over AWR's charges should be rejected. As noted by PAWC, the prices of non-basic products and services are beyond the scope of the Commission's jurisdiction.

For the aforementioned reasons, we recommend that the Commission reject the OCA's request for the Commission to initiate an investigation of this program.

E. Main Extensions

1. PAWC's Position

OCA witness Fought recommends that PAWC consider a main extension project that would extend an existing water line along Bethel Ridge Road to the West Virginia state border with spurs to serve Shades of Death Road, Locust and Carter Lanes and Penobscot Road in Jefferson Township.[1386] PAWC estimates that the main extension proposed by Mr. Fought and the Jefferson Township Municipal Authority ("JTMA") would require the Company to invest $5.2 million to install mains at 39 locations along the route presented in OCA Exhibit TLF-4.[1387] PAWC is continuing to evaluate whether the proposed main extension is eligible under Rule 27.1(F) of its tariff, which authorizes main extensions within its existing service territory to be installed without customer contributions subject to Commission approval in order

[1386] *See* OCA Sts. 7 Supp., pp. 8-10 & 7-SR, pp. 7-9; OCA Ex. TLF-4.

[1387] PAWC St. 3-R, pp. 3-4.

to address health and safety concerns. As Mr. Aiton explained, PAWC has been in continued discussions with the JTMA but has not yet determined whether Rule 27.1(F) is an appropriate mechanism to fund this extension or whether alternate grant funding should be pursued instead.[1388] PAWC MB at 107; PAWC RB at 79.

2. OCA's Position

Mr. Choff is part of the Jefferson Township Municipal Authority Formal Complaint requesting an extension of water service within PAWC's existing service territory in Avella, Washington County, to at least 39 residents who struggle with quantity and quality of water.[1389] PAWC estimates the extension will require 29,500 feet of main and cost $5.2 million. Subject to further investigation, PAWC witness Aiton believes that based on the magnitude of water issues, the proposed project may meet the substantial public need requirements of Tariff Rule 27.1(F) such that no customer contribution will be required.[1390] The OCA recommends that, as part of the approval of any rate increase in this matter, that PAWC be directed to: 1.) Seek grant funding, lower-cost funding, or contributions from other sources to help offset the costs of the project, whether or not the extension is funded under Rule 27.1(F); and 2.) Meet regularly with the OCA and other interested parties to provide updates on the JTMA project and allow the OCA to ask questions in real time.[1391] The OCA notes that this process has been successfully used before. Following PAWC's 2013 base rate case (R-2013-2355276), PAWC met regularly with OCA to provide updates on the progress of extensions under Rule 27.1(F).[1392] OCA MB at 106-107; OCA RB at 76-77.

1388 *Id.* at 5.

1389 Tr. 1840-41; OCA St. 7-Supp., pp. 8-9, Ex. TLF-4.

1390 PAWC St., pp. 3-4.

1391 OCA St. 7SR, pp. 8-9.

1392 OCA St. 7SR, pp. 8-9.

3. ALJs' Recommendation

As there does not appear to be any disagreement between the parties on this issue, we recommend that the Commission adopt the OCA's proposal that PAWC be directed to seek funding to offset the costs of the JTMA main extension request and to meet with the OCA and other interested parties on a regular basis to provide updates on the JTMA project.

F. Pressure Surveys and Pressure Reducing Valves

1. PAWC's Position

Rule 4.7 of the Company's Water Tariff outlines the requirement for customers to install and maintain a pressure reducing valve ("PRV") if the pressure at their service location exceeds 100 pounds per square inch ("psi"). As explained by PAWC witness Runzer, this tariff requirement impacts a small percentage of customers and PAWC has a process in place whereby field service representatives educate customers in the field regarding PRV requirements.[1393] PAWC MB at 108.

OCA witness Alexander made recommendations concerning general PRV education and Mr. Fought made recommendations concerning households with higher operating pressure and PAWC's response to pressure inquiries and complaints. Regarding PRV education, Ms. Alexander recommends a broad outreach and education program, to include website content and potentially bill inserts, covering the need for, operation and life cycle of a PRV.[1394] Mr. Fought further recommends that: (1) PAWC identify households where it provides normal operating pressures up until the curb that exceed 100 psi and inform those customers about PRVs (including replacement and end of life) and the PRV tariff rule; and (2) where there is a pressure-related customer inquiry, PAWC provide the pressure available at its water main to customers to allow them to make sure that their plumber is providing an acceptable PRV or expansion tank

[1393] PAWC St. 2-R, p. 11.

[1394] OCA St. 6, p. 43.

and, if there is a pressure complaint, record the pressure information in the Complaint Log.[1395] PAWC MB at 108.

Apart from the general education campaign, PAWC largely agrees with the recommendations. First, PAWC already records pressure information and reports it to the Commission for pressure complaints. In addition, when the Company takes a pressure reading, it will provide the pressure information to the customer upon request.[1396] Second, the Company has agreed to establish a notification process for customers where PAWC's system pressure regularly exceeds 100 psi. In this notification, the Company will educate the customer that they are responsible for installing a PRV at their service location under PAWC's tariff and encourage them to contact a licensed plumber for guidance, installation, and maintenance of PRVs. The Company will utilize its geographic information system GIS system to identify customers in higher pressure areas to receive this notification.[1397] In light of the small number of customers impacted by the PRV tariff requirement, the Company's existing education efforts by field service representatives, and the Company's agreement to deploy a new, targeted notification process, the Commission should reject the broad outreach and education program recommended by Ms. Alexander. (PAWC MB at 108-109).

2. OCA's Position

Based on the recommendations of OCA witness Fought,[1398] and OCA witness Alexander,[1399] PAWC witness Runzer stated the Company's agreement to establish a notification process for customers "where PAWC systems regularly exceed 100 pounds per square inch."[1400]

[1395] OCA St. 7, pp. 8-10; OCA St. 7-SR, pp. 3-5.

[1396] PAWC St. 2-R pp. 12-13.

[1397] Tr. 1983-84; *see also* Tr. 2054-55 (explaining that the operational team is still considering the way that customers will be notified).

[1398] OCA St. 7, p. 10; OCA St. 7SR, p. 2.

[1399] OCA St. 6, pp. 42-43; OCA St. 6SR, pp. 24-25.

[1400] Tr. 1983.

PAWC will use its GIS system to identify these customers.[1401] Notices will inform customers they may need a pressure reducing valve and encourage them to contact a licensed plumber regarding installation, guidance, and maintenance.[1402] The OCA supports the plan, including annual notice and also targeted notices for move-ins,[1403] but recommends that PAWC also provide notice if, for operational reasons, it increases regular operating pressures above 100 psi.[1404] The Commission should direct the notification agreed to by PAWC – with the OCA's addition – as a part of any authorized rate increase to ensure that consumers are receiving reasonable service.[1405] OCA MB at 107-108; OCA RB at 77-78.

3. ALJs' Recommendation

During the public input hearings, we did hear testimony from customers who had concerns regarding negative experiences with excess pressure. In particular, Jodi Assay testified at length regarding the problems she has experienced as a result of excess pressure, including broken service lines and increased water bills.[1406] Accordingly, we are supportive of the agreement reached by PAWC and the OCA to provide notice to customers where systems regularly exceed 100 pounds per square inch. We are also supportive of the OCA's proposal to provide annual notice and targeted notices for move-ins, and if the Company increases regular operating pressure above 100 psi. Accordingly, we recommend that the Commission adopt the OCA's notice proposals.

1401 Tr. 1983-84.

1402 *Id*.

1403 Tr. 2055.

1404 OCA St. 7SR, p. 2.

1405 66 Pa.C.S. §§ 523, 1501, 1505; *PG&W 1986* at 244-45; *PGW 2000* at *41-44.

1406 Tr. 1472-1523.

XV. MISCELLANEOUS ISSUES

A. Customer Notices Related to Rate Changes

1. PAWC's Position

PAWC urges the PUC to reject the OCA's proposal for several reasons. First, PAWC maintains that it provided the notice that is required by the PUC's regulations and that any new notice requirements should be adopted by the PUC and applied to all water and wastewater utilities and not solely to PAWC. Second, PAWC's notice was consistent with each of the notices in its rate cases since the enactment of Act 11. Finally, PAWC already provides detailed notice of its rate changes once they are approved by PUC through a bill insert. PAWC argues that an additional mailing is not feasible given the short time period between when rates are approved and when those rates become effective and the process of sending a customized direct mail notice to its nearly 800,000 customers (similar to what is done at the time of filing) takes several weeks and considerable expense.[1407] PAWC MB at 109-110; PAWC RB at 80.

2. OCA's Position

As a matter of law, an increase in base rates involves a substantial property right, entitling ratepayers to notice and procedural due process.[1408] The OCA contends that PAWC's notices to customers regarding the contents of its proposed rate changes are deficient and constitute inadequate notice.[1409] The OCA explains that the notice is deficient in terms of the accuracy of: (1) the bill impact of PAWC's proposed revenue shift under Section 1311(c); (2) the residential customer usage level; and (3) the Commission's final disposition of PAWC's

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[1407] PAWC St. 1-R, pp. 25-29.

[1408] *McCloskey 2020* at 1068 (Pa. Cmwlth. 2018) (citing *Barasch 1988* at 1305-06; U.S. Const. amend. XIV, § 1).

[1409] OCA St. 1, pp. 55-62.

proposed alternative ratemaking mechanisms under Section 1330.[1410] To remedy this deficiency, the OCA recommends that customer notices provide relevant information about the impact on their bill if PAWC's cost of service revenue deficiencies are used to set rates. The OCA recommends that a chart, using three usage levels, be included in the rate case notices for Water and Wastewater in PAWC's next base rate filing:[1411]

Gallons per month	Current Bill (example)	Proposed Bill (example)
3,201	$70.65	$88.24
5,000	$100.29	$126.60
10,000	$182.69	$233.19

The OCA further proposes that a notice should be sent at the end of the proceeding that shows customers how the Commission's Final Order will impact their bills. The OCA opines that this notice can include the two other recommendations as well as the information regarding any Section 1311(c) shift, and any other proposals that are adopted in the Final Order.[1412] The OCA recommends a direct mailing of the notice at the end of the case, just as PAWC used direct mailing for the notices at the time of its filing. The notice should include a link to the alternative ratemaking information posted on PAWC's website as required by regulation or Commission Order, and Section 1330(c)(1) and (2). Additionally, the website posting with the alternative ratemaking information could include information about the bill impact of the Commission's order at three usage levels. The OCA's main concern about the notice at the end of the case is that, currently, the information customers might see at the end of the case is limited to press releases or bill inserts that use typical usage level, and that such information is not meaningful for most customers. The OCA contends that when customers receive the first bills containing the new rates, they have not received any meaningful information regarding the Commission's Final Order or about the bill impact of that order.[1413] OCA MB at 108-109.

[1410] OCA St. 1, pp. 55-62; 66 Pa. C.S. § 1330.

[1411] OCA St. 1, pp. 60, 63.

[1412] OCA St. 1, p. 63.

[1413] OCA St. 1SR, pp. 22-23.

The OCA asserts that PAWC currently benefits from the obscurity that is provided by only showing what a typical customer's bill would be. PAWC could choose to show usage at multiple levels but has made the choice not to do so. The OCA further asserts that there is no need to change the notice regulation to have the customer notice show multiple usage levels since PAWC already made changes to the notice regarding small, explanatory charts, and it did not seek a change to the regulations to do so.[1414] OCA MB at 109.

3. ALJs' Recommendation

We agree with PAWC that there is no need to revise customer notices related to rate changes. We agree with the Company that the notice it provided to customers in this and recent base rate cases complies with the Commission's regulations. We further agree with the Company that any new notice requirements should first be adopted by the Commission and then applied to all Pennsylvania water and wastewater utilities. Accordingly, we recommend that the notice changes proposed by the OCA be rejected.

XVI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 501-530; 66 Pa.C.S. § 1308(d).

2. Rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304.

3. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a); *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00038805, 236 PUR. 4th 218, 2004 Pa. PUC LEXIS 39 (Pa.P.U.C. Aug. 5, 2004).

[1414] OCA St. 1SR, p. 21; OCA St. 1, pp. 61-62.

4. A public utility, in proving that its proposed rates are just and reasonable, does not have the burden to defend affirmatively claims made in its filing that no other party has questioned. *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n*, 570 A.2d 149 (Pa. Cmwlth. 1990).

5. A party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See*, e.g., *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, Docket No. R-00891364, 1990 Pa. PUC LEXIS 155 (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Tel. Co.*, Docket No. R-00901666, 1991 Pa. PUC LEXIS 45 (Opinion and Order entered Jan. 31, 1991).

6. A litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

7. Any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704).

8. A Commission decision is adequate where, on each of the issues raised, the Commission was merely presented with a choice of actions, each fully developed in the record, and its choice on each issue amounted to an implicit acceptance of one party's thesis and rejection of the other party's contention. *Popowsky v. Pa. Pub. Util. Comm'n*, 706 A.2d 1197 (Pa. 1997).

9. A utility is entitled to recover its reasonably incurred expenses. *UGI Utils. Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923 (Pa. Cmwlth. 1980). Expenses include such items as the cost of operations and maintenance (labor, fuel and administrative costs, e.g.), depreciation and taxes. *Pa. Power Co. v. Pa. Pub. Util. Comm'n*, 561 A.2d 43 (Pa. Cmwlth. 1989).

10. The rate of return should be reasonably sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management … to raise the money necessary for the proper discharge of public duties. *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm'n of W.V.*, 262 U.S. 679 (1923).

11. Establishment of a rate structure is an administrative function peculiarly within the expertise of the Commission. *Emporium Water Co. v. Pa. Pub. Util. Comm'n*, 955 A.2d 456 (Pa. Cmwlth. 2008); *City of Lancaster v. Pa. Pub. Util. Comm'n*, 769 A.2d 567 (Pa. Cmwlth. 2001).

12. The question of reasonableness of rates and the difference between rates in their respective classes is an administrative question for the Commission to decide. *Pa. Power & Light Co. v. Pa. Pub. Util. Comm'n*, 516 A.2d 426 (Pa. Cmwlth. 1986); *Park Towne v. Pa. Pub. Util. Comm'n*, 433 A.2d 610 (Pa. Cmwlth. 1981).

13. The basic factor in allocating revenue is to have the rates reflect the cost of service. *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

14. Section 1311(c) of the Public Utility Code, more commonly referred to as Act 11, permits utilities that provide both water and wastewater service to combine the revenue requirements by allocating a portion of the wastewater revenue requirement to the water customer base if doing so is in the "public interest." 66 Pa. C.S. § 1311.

XVII. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That Pennsylvania-American Water Company not be permitted to place into effect the rates contained in proposed Supplement No. 45 to Tariff Water-PA. P.U.C. No. 5, which have been found to be unjust and unreasonable and, therefore, unlawful.

2. That Pennsylvania-American Water Company be permitted to file tariffs, tariff supplements or tariff revisions containing proposed rates, rules, and regulations to increase annual revenues in the total amount of not more than $92,590,004.

3. That Pennsylvania-American Water Company – Wastewater Division not be permitted to place into effect the rates contained in proposed Supplement No. 47 to Tariff Wastewater PA P.U.C. No. 16, which have been found to be unjust and unreasonable and, therefore, unlawful.

4. That Pennsylvania-American Water Company – Wastewater Division be permitted to file tariffs, tariff supplements or tariff revisions containing proposed rates, rules, and regulations to increase annual revenues in the total amount of not more than $11,492,198.

5. That Pennsylvania-American Water Company be required to allocate the authorized increase in operating revenues to each customer class and rate schedule within each class in the manner set forth in this Recommended Decision.

6. That Pennsylvania-American Water Company be required to comply with all directives, conclusions and recommendations in this Recommended Decision as if each one was the subject of individual ordering paragraphs.

7. That all of the complaint cases filed against the rate cases docketed at R-2023-3043189 and R-2023-3043190 and captioned above be dismissed and marked closed as if each case was dismissed and marked closed in its own individual ordering paragraph;

8. That upon acceptance and approval by the Commission of the tariff supplements filed by Pennsylvania-American Water Company, consistent with its Final Order, the investigations at Docket Nos. R-2023-3043189 and R-2023-3043190 be marked closed.

Date: May 7, 2024

/s/
Christopher P. Pell
Deputy Chief Administrative Law Judge

/s/
John M. Coogan
Administrative Law Judge

APPENDIX A

Pennsylvania-American Water Company (Water and Wastewater) 2023 Base Rate Case
Docket Nos. R-2023-3043189, R-2023-3043190, et al.

List of Party Exhibits and Testimony

I. Pennsylvania-American Water Company

PAWC Statement No. 1
PAWC Exhibit 3-A
PAWC Exhibit 3-B
PAWC Exhibit 3-C
Schedule AEE-1
Schedule AEE-2
PAWC Statement No. 1-R
PAWC Exhibit 3-A Revised
PAWC Exhibit AEE-1R
PAWC Exhibit AEE-2R

PAWC Statement No. 2
PAWC Exhibit JR-1
PAWC Statement No. 2-R
PAWC Exhibit JR-1R
PAWC Exhibit JR-2R

PAWC Statement No. 3
PAWC Statement No. 3-R
PAWC Exhibit BWA-1R
PAWC Exhibit BWA-2R
PAWC Exhibit BWA-3R

PAWC Statement No. 4
Schedule SDG-1
PAWC Statement No. 4-R
PAWC Exhibit SDG-1R
PAWC Exhibit SDG-2R
PAWC Exhibit SDG-3R
PAWC Exhibit SDG-4R

PAWC Statement No. 5
PAWC Statement No. 5-R
PAWC Exhibit LNO-1R

PAWC Exhibit LNO-2R
PAWC Exhibit LNO-3R
PAWC Exhibit LNO-4R
PAWC Exhibit LNO-5R
PAWC Exhibit LNO-6R

PAWC Statement No. 6
PAWC Statement No. 6-R
PAWC Exhibit ECA-1R_CONFIDENTIAL
PAWC Exhibit ECA-2R
PAWC Exhibit ECA-3R

PAWC Statement No. 7

PAWC Statement No. 8
PAWC Exhibit JCS-1
PAWC Statement No. 8-R
PAWC Exhibit JCS-1R

PAWC Statement No. 9
PAWC Statement No. 9-R
PAWC Exhibit DD-1R_CONFIDENTIAL

PAWC Statement No. 10
PAWC Exhibit CBR-1
PAWC Exhibit CBR-2
PAWC Exhibit CBR-3
PAWC Exhibit CBR-4
PAWC Exhibit CBR-5
PAWC Exhibit CBR-6
PAWC Exhibit CBR-7
PAWC Exhibit CBR-8
PAWC Exhibit CBR-9
PAWC Exhibit CBR-10
PAWC Exhibit CBR-11
PAWC Exhibit 10-A
PAWC Exhibit 10-B
PAWC Exhibit 10-C
PAWC Exhibit 10-D
PAWC Exhibit 10-E

PAWC Statement No. 10-R
PAWC Exhibit CBR-10R
Exhibit 10-E WW BASA Operations Revised
PAWC Schedule Rea 1
PAWC Statement No. 10-SR

PAWC Statement No. 11
PAWC Exhibit 11-A
PAWC Exhibit 11-B
PAWC Exhibit 11-C
PAWC Exhibit 11-D
PAWC Exhibit 11-E
PAWC Exhibit 11-F
PAWC Exhibit 11-G
PAWC Exhibit 11-H
PAWC Exhibit 11-I
PAWC Exhibit 11-J
PAWC Exhibit 11-K
PAWC Exhibit 11-L
PAWC Exhibit 11-M
PAWC Statement No. 11-R
PAWC Exhibit JJS-1R

PAWC Statement No. 12
PAWC Exhibit 12-A
PAWC Exhibit 12-B
PAWC Exhibit 12-C
PAWC Exhibit 12-D
PAWC Exhibit 12-E

Joint Stipulation – PAWC and CAUSE-PA
Joint Stipulation – PAWC and Kyle Donahue

II. I&E

I&E Statement No. 1 in both proprietary and non-proprietary formats
I&E Exhibit No. 1 in both proprietary and non-proprietary formats
I&E Statement No. 1-R
I&E Statement No. 1-SR
I&E Exhibit No. 1-SR
I&E Statement No. 2 in both proprietary and non-proprietary format
I&E Exhibit No. 2
I&E Statement No. 2-R
I&E Statement No 2-SR

I&E Statement No. 3
I&E Exhibit No. 3.
I&E Exhibit 3, Sched. 1 corrected which was provided on February 12, 2024, and has the corrections highlighted therein.
I&E Statement No. 3-R

I&E Statement No. 3-SR

I&E Statement No. 4
I&E Exhibit No. 4
I&E Statement No. 4-SR

III. OCA

OCA Statement 1 Corrected, Direct Testimony of Christine Maloni Hoover
Appendix A
Exhibit CMH-1
Exhibit CMH-2
Exhibit CMH-3
Exhibit CMH-4
Exhibit CMH-5
OCA Statement 1 Supp., Supplemental Direct Testimony of Christine Maloni Hoover
OCA Statement 1R, Rebuttal Testimony of Christine Maloni Hoover
Exhibit CMH-6
OCA Statement 1SR, Surrebuttal Testimony of Christine Maloni Hoover

OCA Statement 2, Direct Testimony of Ralph C. Smith (Confidential and Public versions)
Exhibit RCS-1
Exhibit LA-1
Exhibit LA-2
Exhibit LA-3
Exhibit LA-4 (Confidential)
Exhibit LA-5
Exhibit LA-6
OCA Statement 2SR, Surrebuttal Testimony of Ralph C. Smith
Exhibit LA-7

OCA Statement 3, Direct Testimony of David J. Garrett
Appendix A
Appendix B
Exhibits DJG-1 through DJG-15
OCA Statement 3R, Rebuttal Testimony of David J. Garrett
OCA Statement 3SR, Surrebuttal Testimony of David J. Garrett

OCA Statement 4, Direct Testimony of Jerome D. Mierzwa
Schedules JDM-1 through JDM-7
OCA Statement 4R, Rebuttal Testimony of Jerome D. Mierzwa
OCA Statement 4SR, Surrebuttal Testimony of Jerome D. Mierzwa
Schedule JDM-2SR
Schedule JDM-4SR
Schedule JDM-6SR

OCA Statement 5, Direct Testimony of Roger D. Colton (Confidential and Public versions)
Exhibit RDC-1
OCA Statement 5R, Rebuttal Testimony of Roger D. Colton
OCA Statement 5SR, Surrebuttal Testimony of Roger D. Colton (Confidential and Public versions)

OCA Statement 6, Direct Testimony of Barbara R. Alexander (Confidential and Public versions)
Exhibit BA-1
Exhibit BA-3
Exhibit BA-5
Exhibit BA-6
Exhibit BA-2 (Confidential)
Exhibit BA-4 (Confidential)
Exhibits BA-7 through 9 (Confidential)
OCA Statement 6 Supp., Supplemental Direct Testimony of Barbara R. Alexander
OCA Statement 6SR, Surrebuttal Testimony of Barbara R. Alexander (Confidential and Public versions)
Exhibit BA-10
Exhibit BA- 11 (Confidential)
Exhibit BA-12 (Confidential)

OCA Statement 7, Direct Testimony of Terry L. Fought (Confidential and Public versions)
Exhibit TLF-1
Exhibit TLF-2 (Confidential)
Exhibit TLF-3 (Confidential)
OCA Statement 7 Supp., Supplemental Direct Testimony of Terry L. Fought
Exhibit TLF-4
OCA Statement 7SR, Surrebuttal Testimony of Terry L. Fought

OCA Hearing Exhibit 2
Verifications for Responses to Discovery Attached to OCA Testimony

IV. OSBA

OSBA Statement No. 1 with Schedules KCH-1 through KCH-10, Direct Testimony, Exhibits, and signed Verification of Kevin C. Higgins

OSBA Statement No. 1-R with Schedules KCH-11 through KCH-13, Rebuttal Testimony, Exhibits and signed Verification of Kevin C. Higgins

OSBA Statement No. 1-S, with Schedule KCH-14, Surrebuttal Testimony and signed Verification of Kevin C. Higgins

OSBA Executed Appendix A by Kevin C. Higgins to Protective Order dated January 5, 2024

V. CAUSE-PA

Direct Testimony of Harry S. Geller, Esq. on Behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA Statement 1) o 79 pages of written testimony
Exhibit 1: Water and Wastewater Burden Tables
Appendix A: Resume, Harry S. Geller, Esq.
Appendix B: Cited Discovery Responses
Rebuttal Testimony of Harry S. Geller, Esq. on Behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA Statement 1-R) o 8 pages of written testimony
Surrebuttal Testimony of Harry S. Geller, Esq. on Behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA Statement 1-SR) o 28 pages of written testimony
Verification, Harry S. Geller, Esq.

VI. PAWLUG

CONFIDENTIAL PAWLUG Statement No. 1 – Direct Testimony and Exhibits of Billie S. LaConte
PUBLIC PAWLUG Statement No. 1 – Direct Testimony and Exhibits of Billie S. LaConte
PAWLUG Statement No. 1R – Rebuttal Testimony and Exhibits of Billie S. LaConte
PAWLUG Statement No. 1S – Surrebuttal Testimony and Exhibit of Billie S. LaConte

VII. Cleveland-Cliffs Steel

Cleveland-Cliffs Statement No. 1 with Direct Testimony, Exhibits, and signed Verification of Richard A. Baudino

Cleveland-Cliffs Statement No. 1-R with Rebuttal Testimony, Exhibits and signed Verification of Richard A. Baudino

Cleveland-Cliffs Statement No. 1-S, with Surrebuttal Testimony and signed Verification of Richard A. Baudino

VIII. City of Scranton

City of Scranton Statement No. 1 Direct Testimony of Paige Cognetti
Exhibit 1
Exhibit 2
Exhibit 3

City of Scranton Statement No. 2 Direct Testimony of Teri Ooms
Exhibit 4

IX. CEO

CEO Statement No. 1 Direct Testimony of Jennifer Warabak

X. Exeter Township

Exeter Township Statement No. 1 Direct Testimony of John Piho

XI. Borough of St. Lawrence

Borough of St. Lawrence Statement No. 1 Direct Testimony of Robert J. May
Exhibit 1
Exhibit 2

XII. Kyle Donahue

Kyle Donahue Statement No. 1 Direct Testimony of Kyle Donahue

TABLE ACT 11
PENNSYLVANIA-AMERICAN WATER COMPANY
WATER AND WASTEWATER REVENUE REQUIREMENT SUMMARY
R-2023-3043189, R-2023-3043190

Line No.	Description	Total Company $	Water Operations $	Wastewater SSS Operations $	Wastewater CSS Operations $
1	Present Rate Revenue	994,178,484	820,869,547	94,672,721	78,636,216
2	Additional Revenue Requirement	104,082,203	68,758,696	24,678,219	10,645,287
3	Act 11 - Wastewater Allocation	0	23,831,308	(18,508,664)	(5,322,644)
4	Proposed Revenues	1,098,260,686	913,459,551	100,842,276	83,958,860
5	Rate Increase/(Decrease) $	104,082,203	92,590,004	6,169,555	5,322,644
6	Rate Increase/(Decrease) %	10.47%	11.28%	6.52%	6.77%
7	Rate Increase/(Decrease) $ - Total Wastewater Operations			11,492,198	
8	Rate Increase/(Decrease) % - Total Wastewater Operations			6.63%	

Notes:
(1) Excludes revenue requirement associated with the BASA and Brentwood acquisitions.

Act 11 Workpapers

	Total	Water	WW SSS	WW CSS	
Claimed Revenue Requirement Increase w/ Claimed Act 11					
Act 11	0	47,969,493	-31962411	-16007052	
Total Rev	1,175,257,467	1,001,429,829	95,363,546	78,464,092	1,175,257,467
Inc %	17.73%	21.52%	-0.11%	-0.22%	
Adj. Revenue Requirement Increase, Excluding Act 11					
Act 11	0	0	0	0	
Total Rev	1,098,260,686	889,628,243	119,350,940	89,281,503	1,098,260,686
Inc %	10.47%	8.38%	26.07%	13.54%	
Adj. Revenue Requirement Increase, Modified Percentage Increases					
Percent			0.75	0.5	
Act 11	0	23,831,308	18,508,664	5,322,644	
Total Rev	1,098,260,686	913,459,551	100,842,276	83,958,860	1,098,260,686
Inc %	10.47%	11.28%	6.52%	6.77%	

Wastewater Revenues	184,801,135

TABLE I WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
INCOME SUMMARY
R-2023-3043189, R-2023-3043190

	Pro Forma Present Rates (1)	Company Adjustments (2)	Pro Forma Present Rates (Revised) (3)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues	
	$	$	$	$	$	$	$	
Operating Revenue	824,117,186	0	824,117,186	(3,247,639)	820,869,547	68,758,696	889,628,243	
Expenses:								
O & M Expense	256,824,574	(720,938)	256,103,636	(10,032,095)	246,071,541	808,602	246,880,143	
Depreciation	210,700,336	1,660,367	212,360,703	(1,156,876)	211,203,827	0	211,203,827	
Taxes, Other	14,398,232	(62,322)	14,335,910	(48,401)	14,287,509	438,092	14,725,601	
Income Taxes:								
State	13,347,020	67,799	13,414,819	657,016	14,071,835	5,394,209	19,466,044	
Federal	33,635,358	163,955	33,799,313	1,588,848	35,388,161	13,044,737	48,432,898	
Total Expenses	528,905,520	1,108,861	530,014,381	(8,991,508)	521,022,873	19,685,640	540,708,513	540,708,513
Net Inc. Available for Return	295,211,666	(1,108,861)	294,102,805	5,743,869	299,846,674	49,073,056	348,919,730	348,919,730
Rate Base	4,704,067,656	(3,127,277)	4,700,940,379	(11,159,057)	4,689,781,322		4,689,781,322	
Rate of Return	6.28%		6.26%		6.39%		7.44000000%	
Notes:								
(1) PAWC Ex. 3-A Initial.								
(2) Difference between PAWC Ex. 3-A Initial and Ex. 3-A Revised.								
(3) PAWC Ex. 3-A Revised.								
					Increase %	8.38%		
						49,073,056		
						0		

TABLE I(A) WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
RATE OF RETURN
R-2023-3043189, R-2023-3043190

	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt			2.09000000%		
Long-term Debt (1)	44.01%	4.76%	2.09000000%		2.09%
Short-term Debt	0.00%	0	0.00000000%		
Preferred Stock	0.00%	0	0.00000000%	0.726879	0.00%
Common Equity (1)	55.99%	9.55%	5.35000000%	0.726879	7.36%
	100.00%		7.44000000%		9.45%
Pre-Tax Interest Coverage	4.52				
After-Tax Interest Coverage	3.56				

Notes:
(1) PAWC Main Brief pp. 41

TABLE I(B) WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
REVENUE FACTOR
R-2023-3043189, R-2023-3043190

100%	1.00000000
Less:	
Uncollectible Accounts Factor (1)	0.01176000
PUC, OCA, OSBA, DPC Assessment Factors (1)	0.00637145
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	0.98186855
State Income Tax Rate (1)	0.07990000
Effective State Income Tax Rate	0.07845130
Factor After Local and State Taxes	0.90341725
Federal Income Tax Rate (1)	0.21000000
Effective Federal Income Tax Rate	0.18971762
Revenue Factor (100% - Effective Tax Rates)	0.71369963

Notes:
(1) PAWC Ex. 3-A Revised

TABLE II WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
SUMMARY OF ADJUSTMENTS
R-2023-3043189, R-2023-3043190

Adjustments	Rate Base $	Revenues $	Expenses $	Depreciation $	Taxes-Other $	State Income Tax $	Federal Income Tax $
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	19,816						
Taxes (Table V)	133,412						
O & M (Table VI)	(1,157,109)						
Farmington Plant	(2,502,811)						
AWC Plant	(360,229)						
Farmington Acq Adj.	(195,736)						
AWC Acq Adj.	(6,939,459)						
Farmington Trans. Cost	(49,799)						
AWC Trans. Cost	(107,142)						
REVENUES:							
AWC Revenue (1) (4)		(2,965,024)	(34,869)		(18,891)	(232,610)	(562,517)
Farmington Revenue (1) (4)		(266,371)	(3,133)		(1,697)	(20,897)	(50,535)
Concomitant Revenue (1) (4)		(16,244)	(191)		(103)	(1,274)	(3,082)
EXPENSES:							
AWC O&M & Taxes-Other (2)			(1,557,863)		(27,709)	126,687	306,366
Farmington Expenses (3)			(152,385)			12,176	29,444
Pension Expense (5)			(4,771,807)			381,267	922,013
OPEB Expense (5)			(1,664,016)			132,955	321,523
AMP (4)			(1,847,832)			147,642	357,040
AWC Depreciation				(269,599)		21,541	52,092
Farmington Depreciation				(101,751)		8,130	19,660
AWC Acq Amort.				(763,977)		61,042	147,616
Farmington Acq Amort.				(21,549)		1,722	4,164
TAXES:							
Interest Synchronization (Table III)						18,635	45,064
TOTALS	(11,159,057)	(3,247,639)	(10,032,095)	(1,156,876)	(48,401)	657,016	1,588,848

Amp Adjustment Working Papers

Total Amp	2,377,200		OCA Pay Rate	OCA Step 1 Allow	OCA 1- Write Off	OCA Step 2 Allow	OCA Step 1 Adjust	OCA Step 2 Adjust	OCA Step Difference
Service	Allocation	Subtotal							
Water	0.8545	2,031,317	0.1100	223,445	0.8212	183,485	1,807,872	1,847,832	39,960
WW SSS	0.0697	165,691	0.1100	18,226	0.8212	14,967	147,465	150,724	3,259
WW CSS	0.0526	125,041	0.1100	13,754	0.8212	11,295	111,286	113,746	2,460
WW BW	0.0049	11,648	0.1100	1,281	0.8212	1,052	10,367	10,596	229
WW BASA	0.0183	43,503	0.1100	4,785	0.8212	3,930	38,717	39,573	856
Total	1.0000	2,377,200		261,492		214,728	2,115,708	2,162,472	46,764

Notes:
(1) Revenue adjustments require concomitant adjustments for bad debt & general assessment expenses (Table IB) & forfeited discounts / late payment fee revenues (PAWC Ex. 3-A Revised, Pg. 24R) that are determined as a percentage of revenues. Concomitant revenue is then subject to the same adjustment.
(2) See PAWC Ex. 3-A Revised, Pg. 63R and PAWC Ex. 3-B, p. 304. Taxes-Other includes only property taxes.
(3) See PAWC Ex. 3-A Revised, Pg. 63R and PAWC Ex. 3-B, p. 303.
(4) No cash working capital adjustment is provided for non-cash adjustments, including for bad debt/AMP and depreciation. Tax adjustments are in Table V.
(5) I&E Main Brief pp. 24.

TABLE III WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
INTEREST SYNCHRONIZATION
R-2023-3043189, R-2023-3043190

	Amount $
Company Rate Base Claim	4,700,940,379
ALJ Rate Base Adjustments	(11,159,057)
ALJ Rate Base	4,689,781,322
Weighted Cost of Debt	2.09000000%
ALJ Interest Expense	98,016,430
Company Claim (1)	98,249,654
Total ALJ Adjustment	233,224
Company Adjustment	0
Net ALJ Interest Adjustment	233,224
State Income Tax Rate	7.99%
State Income Tax Adjustment	18,635
Net ALJ Interest Adjustment	233,224
State Income Tax Adjustment	18,635
Net ALJ Adjustment for F.I.T.	214,589
Federal Income Tax Rate	21.00%
Federal Income Tax Adjustment	45,064

Notes:
(1) Company Main Brief

TABLE IV WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL - INTEREST AND DIVIDENDS
R-2023-3043189, R-2023-3043190

Accrued Interest			Preferred Stock Dividends	
	Long-Term Debt	Short-Term Debt		
Company Rate Base Claim	$4,700,940,379	4,700,940,379	Company Rate Base Claim	4,700,940,379
ALJ Rate Base Adjustments	($11,159,057)	(11,159,057)	ALJ Rate Base Adjustments	(11,159,057)
ALJ Rate Base	$4,689,781,322	4,689,781,322	ALJ Rate Base	4,689,781,322
Weighted Cost of Debt	2.09000000%	0	Weighted Cost Pref. Stock	0
ALJ Annual Interest Exp.	$98,016,430	0	ALJ Preferred Dividends	0
Average Revenue Lag Days	50.6	50.6	Average Revenue Lag Days	50.6
Average Expense Lag Days	81.6	15.0	Average Expense Lag Days	46.4
Net Lag Days	-31.0	35.6	Net Lag Days	4.2
Working Capital Adjustment				
ALJ Daily Interest Exp.	$268,538	$0	ALJ Daily Dividends	$0
Net Lag Days	-31.0	35.6	Net Lag Days	4.2
ALJ Working Capital	($8,327,363)	$0		$0
Company Claim (1)	($8,347,179)	$0	Company Claim (1)	$0
ALJ Adjustment	$19,816	$0		$0
Total Interest & Dividend Adj.	$19,816			

Notes:
(1) Company Main Brief.

TABLE V WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -TAXES
R-2023-3043189, R-2023-3043190

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense	Net Lead/ Lag Days	Accrued Tax Adjustment
Assessments	$5,164,137	($20,692)	$5,143,445	$438,092	$5,581,537	$15,291.88	190.20	$2,908,516
Public Utility Realty	$2,126,732	$0	$2,126,732		$2,126,732	$5,826.66	47.35	$275,892
Local Property Tax	$2,073,365	($27,709)	$2,045,656		$2,045,656	$5,604.54	64.56	$361,855
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
State Income Tax	$13,414,819	$657,016	$14,071,835	$5,394,209	$19,466,044	$53,331.63	13.60	$725,310
Federal Income Tax	$34,032,905	$1,588,848	$35,621,753	$13,044,737	$48,666,490	$133,332.85	-18.40	($2,453,324)
	$56,811,958	$2,197,463	$59,009,421	$18,877,038	$77,886,459	$213,388	8.52	$1,818,249
						ALJ Allowance		1,818,249
						Company Claim (1)		1,684,837
						ALJ Adjustment		133,412

Notes:
(1) Company Main Brief

TABLE VI WATER
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -- O & M EXPENSE
R-2023-3043189, R-2023-3043190

Description	Company Pro forma Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company (1)	$60,897,948	($302,738)	$60,595,210	12.05	$730,426,780
Chemicals (1)	$23,528,121	($96,468)	$23,431,653	47.20	$1,106,012,803
Group Insurance (1)	$11,220,476	($95,992)	$11,124,484	11.00	$122,369,324
Insurance, Other (1)	$14,893,805	($71,451)	$14,822,354	-69.48	($1,029,789,524)
Labor (1)	$68,588,923	($504,647)	$68,084,276	12.05	$820,701,480
Leased Equip./Rent	$105,375	$0	$105,375	-13.36	($1,407,511)
Leased Vehicles	$5,043,012	$0	$5,043,012	54.08	$272,747,715
Miscellaneous (1)	$39,139,084	($485,598)	$38,653,486	30.46	$1,177,398,731
Natural Gas	$1,232,626	$0	$1,232,626	33.33	$41,087,081
Power (1)	$15,812,740	($150,641)	$15,662,099	31.00	$485,590,492
Purchased Water	$3,099,741	$0	$3,099,741	35.22	$109,173,435
Telephone	$4,996,974	$0	$4,996,974	3.88	$19,398,219
Waste Disposal (1)	$3,337,122	($2,349)	$3,334,773	41.96	$139,928,434
Post Retirement Benefits/VEBA (2)	($6,496,737)	($1,664,379)	($8,161,116)	0.00	$0
Pensions (2)	$971,072	($4,771,807)	($3,800,735)	-6.41	$24,381,605
	$246,370,282	($8,146,070)	$238,224,212	16.90	$4,018,019,064

ALJ Average Revenue Lag	50.6	
Less: ALJ Avg. Expense Lag	16.9	
Net Difference	33.7	Days
ALJ Pro forma		
O & M Expense per Day	$652,669	
ALJ CWC for O & M	$21,994,945	
Less: Company Claim (1)	$23,152,054	
ALJ Adjustment	($1,157,109)	

Acquisition O&M Expenses Workpapers

	Audubon Present Rates (1)	Farmington Present Rates (2)	Total Present Rates (3) = (1)+(2)
Production Costs			
Fuel & Power	145000	5641	150641
Chemicals	92000	4468	96468
Waste Disposal		2349	2349
Labor & Labor Related			
Labor	387283	47751	435034
Group Insurace	85518	10474	95992
401k	12332	1587	13919
DCP	18721	2434	21155
VEBA		363	363
Other O&M			
Service Company	261549	41189	302738
Contracted Services	160528		160528
Insurance Other Than Group	63196	8255	71451
Rents	5622		5622
General Office	112431		112431
Miscellaneous	102210	5632	107842
Maintenance	80746	18432	99178
Taxes Other Than Income			
Payroll Tax	30729	3810	34539
Property Tax	27709		27709
Total	1585574	152385	1737959
Claim	1585572	152385	1737956
Difference	-2	0	-3

Notes:
(1) See Table II, Notes 2 & 3. In PAWC Ex. 3-B, pgs. 303-304, "Labor", "401K", "DCP", & "Payroll Taxes" are assigned to Labor above. "Contracted Services", "Rents", "General Office", "Miscellaneous", & "Maintenance" are assigned to Miscellanous above. Other O&M Expenses are assigned to a description above that matches the expense.
(2) See Table II, Note 6. The OPEB adjustment is assigned to Post Retirement Benefits/VEBA above, and the Pensions adjustment is assigned to Pensions above.

TABLE I WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
INCOME SUMMARY
R-2023-3043189, R-2023-3043190

	Pro Forma Present Rates (1)	Company Adjustments (2)	Pro Forma Present Rates (Revised) (3)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues	
	$	$	$	$	$	$	$	
Operating Revenue	95,470,867	0	95,470,867	(798,146)	94,672,721	24,678,219	119,350,940	
Expenses:								
O & M Expense	26,009,252	57,140	26,066,392	(670,027)	25,396,365	290,216	25,686,581	
Depreciation	27,406,489	0	27,406,489	(110,119)	27,296,370	0	27,296,370	
Taxes, Other	3,217,927	3,124	3,221,051	(8,632)	3,212,419	157,236	3,369,655	
Income Taxes:								
State	2,906,503	(4,825)	2,901,678	7,668	2,909,346	1,936,038	4,845,384	
Federal	7,064,720	(11,668)	7,053,052	18,542	7,071,594	4,681,893	11,753,487	
Total Expenses	66,604,891	43,771	66,648,662	(762,569)	65,886,093	7,065,383	72,951,476	72,951,476
Net Inc. Available for Return	28,865,976	(43,771)	28,822,205	(35,578)	28,786,627	17,612,836	46,399,463	46,399,463
Rate Base	649,330,622	5,483	649,336,105	(4,899,118)	644,436,987		644,436,987	
Rate of Return	4.45%		4.44%		4.47%		7.20000000%	

Notes:
(1) PAWC Ex. 3-A Initial.
(2) Difference between PAWC Ex. 3-A Initial and Ex. 3-A Revised.
(3) PAWC Ex. 3-A Revised.

TABLE I(A) WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
RATE OF RETURN
R-2023-3043189, R-2023-3043190

	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt			2.15000000%		
Long-term Debt (1)	42.73%	4.76%	2.03000000%		2.03%
Wastewater Specific Long-term Debt	4.40%	2.67%	0.12000000%		
Preferred Stock	0.00%	0	0.00000000%	0.726879	0.00%
Common Equity (1)	52.87%	9.55%	5.05000000%	0.726879	6.95%
	100.00%		7.20000000%		8.98%
Pre-Tax Interest Coverage	4.42				
After-Tax Interest Coverage	3.55				

Notes:
(1) PAWC Main Brief pp. 41

TABLE I(B) WASTEWATER SSS	
PENNSYLVANIA-AMERICAN WATER COMPANY	
REVENUE FACTOR	
R-2023-3043189, R-2023-3043190	
100%	1.00000000
Less:	
Uncollectible Accounts Factor (1)	0.01176000
PUC, OCA, OSBA, DPC Assessment Factors (1)	0.00637145
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	0.98186855
State Income Tax Rate (1)	0.07990000
Effective State Income Tax Rate	0.07845130
Factor After Local and State Taxes	0.90341725
Federal Income Tax Rate (1)	0.21000000
Effective Federal Income Tax Rate	0.18971762
Revenue Factor (100% - Effective Tax Rates)	0.71369963

Notes:
(1) PAWC Ex. 3-A Revised

TABLE II WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
SUMMARY OF ADJUSTMENTS
R-2023-3043189, R-2023-3043190

Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	$	$	$	$	$	$	$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	8,962						
Taxes (Table V)	20,457						
O & M (Table VI)	(31,379)						
Sadsbury Plant	(2,018,697)						
Farmington Plant	(2,878,461)						
REVENUES:							
Sadsbury Revenue (1) (4)		(471,228)	(5,542)		(3,002)	(36,968)	(89,400)
Farmington Revenue (1) (4)		(322,926)	(3,798)		(2,058)	(25,334)	(61,265)
Concomitant Revenue (1)		(3,992)	(47)		(25)	(313)	(757)
EXPENSES:							
Sadsbury O&M & Taxes-Other (2)			(245,741)		(3,547)	19,918	48,168
Farmington O&M (3)			(264,176)			21,108	51,044
AMP (4)			(150,724)			12,043	29,123
						0	0
Sadsbury Depreciation				(51,847)		4,143	10,018
Farmington Depreciation				(137,987)		11,025	26,662
Sadsbury Acq. Amort.				85,414		(6,825)	(16,504)
Farmington Acq. Amort.				(5,699)		455	1,101
TAXES:							
Interest Synchronization (Table III)						8,416	20,352
TOTALS	(4,899,118)	(798,146)	(670,027)	(110,119)	(8,632)	7,668	18,542

Notes:
(1) Revenue adjustments require concomitant adjustments for bad debt & general assessment expenses (Table IB) & forfeited discounts / late payment fee revenues (PAWC Ex. 3-A Revised, Pg. 95R) that are determined as a percentage of revenues. Concomitant revenue is then subject to the same adjustment.
(2) See PAWC Ex. 3-A Initial, Pg. 126 & PAWC Ex. 3-B, p. 306. Taxes-Other includes only property taxes.
(3) See PAWC Ex. 3-A Initial, Pg. 126 & PAWC Ex. 3-B, p. 305.
(4) No cash working capital adjustment is provided for non-cash adjustments, including for bad debt/AMP and depreciation. Tax adjustments are in Table V.

TABLE III WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
INTEREST SYNCHRONIZATION
R-2023-3043189, R-2023-3043190

	Amount $
Company Rate Base Claim	649,336,105
ALJ Rate Base Adjustments	(4,899,118)
ALJ Rate Base	644,436,987
Weighted Cost of Debt	2.15000000%
ALJ Interest Expense	13,855,395
Company Claim (1)	13,960,726
Total ALJ Adjustment	105,331
Company Adjustment	0
Net ALJ Interest Adjustment	105,331
State Income Tax Rate	7.99%
State Income Tax Adjustment	8,416
Net ALJ Interest Adjustment	105,331
State Income Tax Adjustment	8,416
Net ALJ Adjustment for F.I.T.	96,915
Federal Income Tax Rate	21.00%
Federal Income Tax Adjustment	20,352
Notes:	
(1) Company Main Brief	

TABLE IV WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL - INTEREST AND DIVIDENDS
R-2023-3043189, R-2023-3043190

Accrued Interest	Long-Term Debt	Wastewater Specific Long-Term Debt	Preferred Stock Dividends	
Company Rate Base Claim	$649,336,105	649,336,105	Company Rate Base Claim	649,336,105
ALJ Rate Base Adjustments	($4,899,118)	(4,899,118)	ALJ Rate Base Adjustments	(4,899,118)
ALJ Rate Base	$644,436,987	644,436,987	ALJ Rate Base	644,436,987
Weighted Cost of Debt	2.03000000%	0.12000000%	Weighted Cost Pref. Stock	0
ALJ Annual Interest Exp.	$13,082,071	773,324	ALJ Preferred Dividends	0
Average Revenue Lag Days	50.6	50.6	Average Revenue Lag Days	50.6
Average Expense Lag Days	81.6	81.6	Average Expense Lag Days	46.4
Net Lag Days	-31.0	-31.0	Net Lag Days	4.2
Working Capital Adjustment				
ALJ Daily Interest Exp.	$35,841	$2,119	ALJ Daily Dividends	$0
Net Lag Days	-31.0	-31.0	Net Lag Days	4.2
ALJ Working Capital	($1,111,429)	($65,710)		$0
Company Claim (1)	($1,119,895)	($66,206)	Company Claim (1)	$0
ALJ Adjustment	$8,466	$496		$0
Total Interest & Dividend Adj.	$8,962			

Notes:
(1) Company Main Brief.

TABLE V WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -TAXES
R-2023-3043189, R-2023-3043190

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense	Net Lead/ Lag Days	Accrued Tax Adjustment
Assessments	$598,699	($5,085)	$593,614	$157,236	$750,850	$2,057.12	190.20	$391,264
Public Utility Realty	$0	$0	$0		$0	$0.00	47.35	$0
Local Property Tax	$2,227,703	($3,547)	$2,224,156		$2,224,156	$6,093.58	64.56	$393,430
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
State Income Tax	$2,901,678	$7,668	$2,909,346	$1,936,038	$4,845,384	$13,275.02	13.60	$180,540
Federal Income Tax	$7,053,052	$18,542	$7,071,594	$4,681,893	$11,753,487	$32,201.33	-18.40	($592,504)
	$12,781,132	$17,578	$12,798,710	$6,775,167	$19,573,877	$53,627	6.95	$372,730
						ALJ Allowance		372,730
						Company Claim (1)		352,273
						ALJ Adjustment		20,457

Notes:
(1) Company Main Brief

TABLE VI WASTEWATER SSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -- O & M EXPENSE
R-2023-3043189, R-2023-3043190

Description	Company Pro forma Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	$1,903,699	($63,607)	$1,840,092	12.05	$22,180,837
Chemicals	$1,827,234	($7,500)	$1,819,734	47.20	$85,894,457
Group Insurance	$1,070,958	($15,709)	$1,055,249	11.00	$11,607,739
Insurance, Other	$2,098,237	($12,770)	$2,085,467	-69.48	($144,888,732)
Labor	$5,286,389	($75,958)	$5,210,431	12.05	$62,807,577
Leased Equip./Rent	$50,345	$0	$50,345	-13.36	($672,466)
Leased Vehicles	$176,055	$0	$176,055	54.08	$9,521,809
Miscellaneous	$5,595,997	($106,873)	$5,489,124	30.46	$167,200,642
Natural Gas	$431,432	$0	$431,432	33.33	$14,380,908
Power	$3,372,968	($37,500)	$3,335,468	31.00	$103,413,441
Purchased Water	$0	$0	$0	35.22	$0
Telephone	$211,445	$0	$211,445	3.88	$820,828
Waste Disposal	$3,087,197	($190,000)	$2,897,197	41.96	$121,567,566
Post Retirement Benefits	$9,810	$0	$9,810	0.00	$0
Pensions	$216,538	$0	$216,538	-6.41	($1,389,085)
	$25,338,304	($509,917)	$24,828,387	18.20	$452,445,521
ALJ Average Revenue Lag	50.6				
Less: ALJ Avg. Expense Lag	18.2				
Net Difference	32.4	Days			
ALJ Pro forma O & M Expense per Day	$68,023				
ALJ CWC for O & M	$2,203,945				
Less: Company Claim (1)	$2,235,324				
ALJ Adjustment	($31,379)				

Acquisition O&M Expenses Working Papers

	Sadsbury Present Rates (1)	Farmington Present Rates (2)	Total Present Rates (3) = (1)+(2)
Production Costs			
Fuel & Power	7500	30000	37500
Chemicals		7500	7500
Waste Disposal	185000	5000	190000
Labor & Labor Related			0
Labor		65425	65425
Group Insurace		15709	15709
401k		2115	2115
DCP		3210	3210
VEBA			0
Other O&M			0
Service Company	22418	41189	63607
Contracted Services	16500	51200	67700
Insurance Other Than Group	3822	8948	12770
Rents			0
General Office			0
Miscellaneous	1500	8192	9692
Maintenance	9000	20480	29480
Taxes Other Than Income			0
Payroll Tax		5208	5208
Property Tax	3547		3547
			0
Total	249287	264176	513463
			0
Claim	249288	264176	513464
			0
Difference	1	0	1

Notes:
(1) See Table II, Notes 2 & 3. In PAWC Ex. 3-B, p. 305-306, "Labor", "401K", "DCP", & "Payroll Taxes" are assigned to Labor above. "Contracted Services", "Rents", "General Office", "Miscellaneous", & "Maintenance" are assigned to Miscellanous above. Other O&M Expenses are assigned to a description above that matches the expense.

TABLE I WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
INCOME SUMMARY
R-2023-3043189, R-2023-3043190

	Pro Forma Present Rates (1)	Company Adjustments (2)	Pro Forma Present Rates (Revised) (3)	ALJ Adjustments	ALJ Pro Forma Present Rates	ALJ Revenue Increase	Total Allowable Revenues	
	$	$	$	$	$	$	$	
Operating Revenue	78,636,216	0	78,636,216	0	78,636,216	10,645,287	89,281,503	
Expenses:								
O & M Expense	21,438,527	20,813	21,459,340	(113,746)	21,345,594	125,189	21,470,783	
Depreciation	20,497,016	0	20,497,016	0	20,497,016	0	20,497,016	
Taxes, Other	2,231,143	892	2,232,035	0	2,232,035	67,826	2,299,861	
Income Taxes:								
State	1,984,048	(2,279)	1,981,769	9,060	1,990,829	835,137	2,825,966	
Federal	4,906,577	(5,513)	4,901,064	21,910	4,922,974	2,019,598	6,942,572	
Total Expenses	51,057,311	13,913	51,071,224	(82,776)	50,988,448	3,047,750	54,036,198	54,036,198
Net Inc. Available for Return	27,578,905	(13,913)	27,564,992	82,776	27,647,768	7,597,538	35,245,306	35,245,305
Rate Base	483,184,280	6,317,381	489,501,661	16,474	489,518,135		489,518,135	
Rate of Return	5.71%		5.63%		5.65%		7.20000000%	
					Increase %	13.54%		
						7,597,537		
						0		

Notes:
(1) PAWC Ex. 3-A Initial.
(2) Difference between PAWC Ex. 3-A Initial and Ex. 3-A Revised.
(3) PAWC Ex. 3-A Revised.

TABLE I(A) WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
RATE OF RETURN
R-2023-3043189, R-2023-3043190

	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt			2.15000000%		
Long-term Debt (1)	42.73%	4.76%	2.03000000%		2.03%
Wastewater Specific Long-term Debt	4.40%	2.67%	0.12000000%		
Preferred Stock	0.00%	0	0.00000000%	0.726879	0.00%
Common Equity (1)	52.87%	9.55%	5.05000000%	0.726879	6.95%
	100.00%		7.20000000%		8.98%
Pre-Tax Interest Coverage	4.42				
After-Tax Interest Coverage	3.55				

Notes:
(1) PAWC Main Brief pp. 41

TABLE I(B) WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
REVENUE FACTOR
R-2023-3043189, R-2023-3043190

100%	1.00000000
Less:	
Uncollectible Accounts Factor (1)	0.01176000
PUC, OCA, OSBA, DPC Assessment Factors (1)	0.00637145
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	0.98186855
State Income Tax Rate (1)	0.07990000
Effective State Income Tax Rate	0.07845130
Factor After Local and State Taxes	0.90341725
Federal Income Tax Rate (1)	0.21000000
Effective Federal Income Tax Rate	0.18971762
Revenue Factor (100% - Effective Tax Rates)	0.71369963

Notes:
(1) PAWC Ex. 3-A Revised

TABLE II WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
SUMMARY OF ADJUSTMENTS
R-2023-3043189, R-2023-3043190

Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	$	$	$	$	$	$	$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	(31)						
Taxes (Table V)	16,505						
O & M (Table VI)	0						
REVENUES:							
Concomitant Revenue (1)		0	0		0	0	0
EXPENSES:							
AMP (2)			(113,746)			9,088	21,978
TAXES:							
Interest Synchronization (Table III)						(28)	(68)
TOTALS	16,474	0	(113,746)	0	0	9,060	21,910

Notes:
(1) Revenue adjustments require concomitant adjustments for bad debt & general assessment expenses (Table IB) & forfeited discounts / late payment fee revenues (PAWC Ex. 3-A Revised, Pg. 216R) that are determined as a percentage of revenues. Concomitant revenue is then subject to the same adjustment.
(2) No cash working capital adjustment is provided for non-cash adjustments, including for bad debt/AMP and depreciation. Tax adjustments are in Table V.

TABLE III WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
INTEREST SYNCHRONIZATION
R-2023-3043189, R-2023-3043190

	Amount $
Company Rate Base Claim	489,501,661
ALJ Rate Base Adjustments	16,474
ALJ Rate Base	489,518,135
Weighted Cost of Debt	2.15000000%
ALJ Interest Expense	10,524,640
Company Claim (1)	10,524,286
Total ALJ Adjustment	(354)
Company Adjustment	0
Net ALJ Interest Adjustment	(354)
State Income Tax Rate	7.99%
State Income Tax Adjustment	(28)
Net ALJ Interest Adjustment	(354)
State Income Tax Adjustment	(28)
Net ALJ Adjustment for F.I.T.	(326)
Federal Income Tax Rate	21.00%
Federal Income Tax Adjustment	(68)

Notes:
(1) Company Main Brief

TABLE IV WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL - INTEREST AND DIVIDENDS
R-2023-3043189, R-2023-3043190

Accrued Interest	Long-Term Debt	Wastewater Specific Long-Term Debt	Preferred Stock Dividends	
Company Rate Base Claim	$489,501,661	489,501,661	Company Rate Base Claim	489,501,661
ALJ Rate Base Adjustments	$16,474	16,474	ALJ Rate Base Adjustments	16,474
ALJ Rate Base	$489,518,135	489,518,135	ALJ Rate Base	489,518,135
Weighted Cost of Debt	2.03000000%	0.12000000%	Weighted Cost Pref. Stock	0
ALJ Annual Interest Exp.	$9,937,218	587,422	ALJ Preferred Dividends	0
Average Revenue Lag Days	50.6	50.6	Average Revenue Lag Days	50.6
Average Expense Lag Days	81.6	81.6	Average Expense Lag Days	46.4
Net Lag Days	-31.0	-31.0	Net Lag Days	4.2
Working Capital Adjustment				
ALJ Daily Interest Exp.	$27,225	$1,609	ALJ Daily Dividends	$0
Net Lag Days	-31.0	-31.0	Net Lag Days	4.2
ALJ Working Capital	($844,247)	($49,895)		$0
Company Claim (1)	($844,216)	($49,895)	Company Claim (1)	$0
ALJ Adjustment	($31)	$0		$0
Total Interest & Dividend Adj.	($31)			

Notes:
(1) Company Main Brief.

TABLE V WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -TAXES
R-2023-3043189, R-2023-3043190

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense	Net Lead/ Lag Days	Accrued Tax Adjustment
Assessments	$497,495	$0	$497,495	$67,826	$565,321	$1,548.82	190.20	$294,586
Public Utility Realty	$0	$0	$0		$0	$0.00	47.35	$0
Local Property Tax	$1,198,060	$0	$1,198,060		$1,198,060	$3,282.36	64.56	$211,924
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
State Income Tax	$1,981,769	$9,060	$1,990,829	$835,137	$2,825,966	$7,742.37	13.60	$105,296
Federal Income Tax	$4,901,064	$21,910	$4,922,974	$2,019,598	$6,942,572	$19,020.75	-18.40	($349,982)
	$8,578,388	$30,970	$8,609,358	$2,922,561	$11,531,919	$31,594	8.29	$261,824
						ALJ Allowance		261,824
						Company Claim (1)		245,319
						ALJ Adjustment		16,505

Notes:
(1) Company Main Brief

TABLE VI WASTEWATER CSS
PENNSYLVANIA-AMERICAN WATER COMPANY
CASH WORKING CAPITAL -- O & M EXPENSE
R-2023-3043189, R-2023-3043190

Description	Company Pro forma Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	$1,038,033	$0	$1,038,033	12.05	$12,512,657
Chemicals	$2,129,667	$0	$2,129,667	47.20	$100,523,807
Group Insurance	$1,327,139	$0	$1,327,139	11.00	$14,598,529
Insurance, Other	$1,434,260	$0	$1,434,260	-69.48	($99,645,841)
Labor	$7,280,640	$0	$7,280,640	12.05	$87,762,291
Leased Equip./Rent	$16,425	$0	$16,425	-13.36	($219,391)
Leased Vehicles	$690,475	$0	$690,475	54.08	$37,343,849
Miscellaneous	$3,209,124	$0	$3,209,124	30.46	$97,751,042
Natural Gas	$150,057	$0	$150,057	33.33	$5,001,845
Power	$1,691,208	$0	$1,691,208	31.00	$52,434,512
Purchased Water	$0	$0	$0	35.22	$0
Telephone	$120,976	$0	$120,976	3.88	$469,628
Waste Disposal	$1,704,931	$0	$1,704,931	41.96	$71,539,599
Post Retirement Benefits	$32,234	$0	$32,234	0.00	$0
Pensions	$245,439	$0	$245,439	-6.41	($1,574,484)
	$21,070,608	$0	$21,070,608	18.00	$378,498,043
ALJ Average Revenue Lag	50.6				
Less: ALJ Avg. Expense Lag	18.0				
Net Difference	32.6	Days			
ALJ Pro forma					
O & M Expense per Day	$57,728				
ALJ CWC for O & M	$1,881,933				
Less: Company Claim (1)	$1,881,933				
ALJ Adjustment	$0				

Notes:
(1) Company Main Brief