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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

May 17, 2024

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

Re: Pennsylvania Public Utility Commission v.
Pennsylvania-American Water Company
Docket Nos. R-2023-3043189 (Water)
R-2023-3043190 (Wastewater)
**I&E Exceptions**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Exceptions of the Bureau of Investigation and Enforcement in the above-captioned proceeding.

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

Respectfully,

Carrie B Wright

Carrie B. Wright
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 208185
(717) 783-6156
carwright@pa.gov

CBW/ac
Enclosures

cc: Deputy Chief Administrative Law Judge Christopher P. Pell (*via email – cpell@pa.gov*)
Administrative Law Judge John M. Coogan (*via email – jcoogan@pa.gov*)
Pamela McNeal, Legal Assistant (*via email – pmcneal@pa.gov*)
Office of Special Assistants (*via email – ra-OSA@pa.gov*)
Per Certificate of Service

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| Pennsylvania Public Utility Commission | : | |
| | : | |
| v. | : | Docket Nos. R-2023-3043189 |
| | : | R-2023-3043190 |
| Pennsylvania American Water Company | : | |

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# EXCEPTIONS OF THE BUREAU OF INVESTIGATION & ENFORCEMENT

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Carrie B. Wright
Prosecutor
PA Attorney ID No. 208185

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

Dated: May 17, 2024

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## I. INTRODUCTION

Pursuant to 66 Pa. C.S. § 332(h) of the Public Utility Code and 52 Pa. Code § 5.533 of the Public Utility Commission regulations, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (PUC or Commission) respectfully submits these Exceptions to the Recommended Decision of Deputy Chief Administrative Law Judge Christopher Pell and Administrative Law Judge John Coogan (the ALJs) issued on May 7, 2024 (RD).

On November 8, 2023, the Pennsylvania American Water Company (PAWC or Company) filed, respectively, Supplement No. 45 to Tariff Water-PA P.U.C. No. 5 (Supplement No. 45), and Supplement No. 47 to Tariff Wastewater-PA P.U.C. No 16 (Supplement No. 47), both of which were to become effective January 7, 2024.[1] Supplement No. 45 proposed to increase PAWC's total annual operating revenues for water service by $199.2 million, or 24.2%. Supplement No. 47 proposed to increase PAWC's wastewater total annual operating revenues by $4.7 million or 2.5%.

The parties to this base rate proceeding are PAWC, the Commission's Bureau of Investigation and Enforcement (I&E), Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), 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 Additionally, there were dozens of formal complaints filed by PAWC ratepayers that were consolidated into this proceeding.

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[1] I&E MB, p. 1.

By Order entered on December 21, 2023, the Commission suspended the rate filings until August 7, 2024, and directed an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules and regulations contained in this rate filing. The matter was assigned to the Office of Administrative Law Judge, with ALJs Pell and Coogan, which culminated in the issuance of the May 7, 2024, Recommended Decision.

Pursuant to the established litigation schedule, I&E filed the following pieces of direct, rebuttal and surrebuttal testimony:

- I&E Statement No. 1, I&E Exhibit No. 1, I&E Statement No. 1-R, I&E Statement No. 1-SR, and I&E Exhibit No. 1-SR, the prepared direct, rebuttal, and surrebuttal testimony and exhibits of I&E witness Vanessa Okum, who addressed the Company's operating and maintenance expenses, and overall revenue requirement;

- I&E Statement No. 2, I&E Exhibit No. 2, I&E Statement No. 2-R, and I&E Statement No. 2-SR, the prepared direct, rebuttal, and surrebuttal testimony and exhibit of I&E witness DC Patel, who addressed the Company's rate of return;

- I&E Statement No. 3, I&E Exhibit No. 3, I&E Exhibit No. 3, Sch. 1-Corrected[2], I&E Statement No. 1-R, and I&E Statement No. 3-SR, the prepared direct and surrebuttal testimony and exhibits of I&E witness Joseph Kubas who addressed the Company's wastewater rate base and rate structure; and

- I&E Statement No. 4, I&E Exhibit No. 4, I&E Statement No. 4-R, and I&E Statement No. 4-SR, the prepared direct, rebuttal, and surrebuttal testimony and exhibits of I&E witness Ethan Cline who addressed the Company's water rate base and rate structure.

On March 7 and 8, 2024, at the time and place set for the evidentiary hearing, the parties appeared telephonically before the ALJs. After the conclusion of the hearing and the

[2] Mr. Kubas inadvertently increased the Water "Additional Revenue" line 2 Column C when the Additional Revenue from BASA and Brentwood were removed. As such I&E provided a corrected exhibit which reduces the increase allocated to the water operations by the amount of the additional revenue needed to operate BASA and Brentwood.

closing of the record, the active parties submitted briefs according to the briefing schedule. I&E submitted its Main Brief on March 26, 2024 (I&E MB) as did the other active parties. I&E then submitted its Reply Brief on April 5, 2024 (I&E RB) as did the other active parties.

Finally, and as stated previously, on May 7, 2024, the ALJs issued a Recommended Decision. Although I&E supports several aspects of the ALJs' well-reasoned recommendations, I&E requests that the Commission revise the RD in response to the exceptions and arguments raised by I&E as set forth below.

## II. EXCEPTIONS

### A. I&E Exception No. 1: The ALJ erred in concluding that the appropriate return on equity (ROE) could be arrived at by averaging the I&E discounted cash flow (DCF) and I&E capital asset pricing model (CAPM) results. R.D. at 167-169.

In the RD, ALJs Coogan and Pell- recommended a 9.45% ROE. To arrive at this recommendation, the ALJs erroneously recommend a ROE that "…is the average of the results of I&E's DCF and CAPM analyses," of 8.45% and 10.44% respectively.[3] The ALJs explain that they agree with PAWC that relying on the DCF alone is not appropriate.[4] They state that they believe that I&E witness Patel does not persuasively explain how his CAPM results were used as a comparison.[5] However, the ALJs believe the I&E specific DCF and CAPM models should be used to determine PAWC's ROE.[6]

The ALJ's determination that the I&E DCF and CAPM calculations should be relied upon demonstrates that the I&E calculations are reasonable and reliable. It flows, therefore, that if the I&E calculations are reasonable and reliable they should be used to calculate the

[3] RD, p. 167.
[4] RD. p. 167.
[5] RD, p. 168.
[6] RD, p. 168.

Company's ROE. I&E disagrees, however, that it was appropriate to calculate the average of the I&E DCF and CAPM to determine the ROE and instead recommend that the Commission utilize the 8.45% DCF ROE.

The RD explains in detail why the I&E DCF and CAPM analyses were appropriate.[7] Additionally, I&E witness Patel gave no specific weight to his CAPM results because of his concerns that unlike the DCF, which measures the cost of equity directly by measuring the discounted present value of future cash flows, the CAPM measures the cost of equity indirectly and can be manipulated by the time period used. However, I&E submits that for purposes of providing another point of comparison, the 10.44% CAPM analysis confirms the reasonableness of I&E witness Patel's 8.45% ROE under his DCF calculation. The CAPM is forward-looking and is based on the concept of risk and return, however, it does have flaws that discount its use as primary determinant of the ROE. I&E witness Patel gave no specific weight to his CAPM results because of his concerns that unlike the DCF, which measures the cost of equity directly by measuring the discounted present value of future cash flows, the CAPM measures the cost of equity indirectly and can be manipulated by the time period used.

In this proceeding, the ALJs have essentially given the CAPM 50% weight by averaging the DCF results and the CAPM results together. This is inappropriate. Given the flaws of the CAPM there is simply no way to appropriately give the results weight apart from the comparison Mr. Patel performed. The flaws of the CAPM results can be seen because at the ALJs pointed out, I&E's appropriate DCF analysis and appropriate CAPM analysis are

[7] RD, pp. 168-169.

nearly 200 basis points apart. This highlights the concern I&E raises about the CAPM overstating the rate of return. It is clear that the DCF methodology has widespread regulatory acceptance and it the most accurate method for calculating the ROE. To average the results of those two methods together to determine the ROE is largely comparing apples to oranges. You cannot average together the results of two separate methods and expect to get an accurate result, which is why I&E does not do so.

Therefore, I&E continues to assert that the Commission should rely primarily on the I&E DCF analysis and grant the Company a return on equity of 8.45% and utilize the I&E results of the CAPM as simply a comparison to the accuracy of the DCF.

### B. I&E Exception No. 2: The ALJ erred in recommending the Commission award an upward adjustment of 10 basis points to PAWC's ROE in recognition of PAWC's business risk and management performance. R.D. at 183-184.

In the Recommended Decision, the ALJs state "…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."[8] They go on to explain, however, that PAWC's testimony supporting the Company's requested 25 basis point adder are more reflective of PAWC simply complying with its legal obligations and the significant amount of criticism voiced by customers at the public input hearings shows that a 25 basis point adder is not warranted.[9] As a result, they conclude that a 10 basis point upward adjustment for management performance and business risk is appropriate.[10]

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8 RD, p. 184.
9 RD, p. 184.
10 RD, p. 184.

As recently explained by the Commission in *Columbia Gas 2021*:

> [The ALJ] agreed with I&E, the OCA, and the OSBA that Columbia failed to provide sufficient evidence to support its proposal for an additional twenty-basis points for "strong management performance." The ALJ reasoned that while effective operating and maintenance cost measures should flow through to ratepayers and/or investors, Columbia's proposal defeats the purpose of cutting expenses to benefit ratepayers, particularly during a pandemic when so many ratepayers have experienced reduced household income from job loss or reduction in hours. Therefore, the ALJ recommended that no upward management effectiveness adjustment be made to the Company's cost of equity.[11]

Similarly, here, the cost cutting measures that would be implemented by PAWC and passed along to ratepayers, as they should be, would effectively be eroded by awarding PAWC a management performance adder. All the benefits will essentially flow only to PAWC which has now, not only cut its costs, but adding extra expense to ratepayers who are expected to support this inflated return.

It must be recognized that the Company passes on capital expenditures related to these acquisitions to its ratepayers via rate base or it can utilize a DSIC for capital expenditure recovery.[12] If the Company is as effective at controlling operating and maintenance costs those savings should flow through to ratepayers and/or investors, but through this adder, the claimed savings to the ratepayers would likely be offset by the addition of basis points for management performance as ratepayers would have to fund the additional costs. This would defeat the purpose of cutting expenses to benefit ratepayers.

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[11] *Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Docket No. R-2020-3018835, p. 134 (Order entered February 19, 2021).

[12] I&E Statement No. 2, p. 71.

While PAWC has certainly acquired many small and potentially less viable water and wastewater systems, again, the associated costs are born by their ratepayers. It is not as if PAWC is not gaining any benefit from these acquisitions, and it is not as if ratepayers are not incurring rate increases as a result of these acquisitions.

The ALJs rely heavily on the Commission's recent decision in the Aqua base rate case for their recommendation that PAWC be awarded 10 basis points for management performance. I&E acknowledges that in the most recent Aqua Pennsylvania base rate case the Commission granted Aqua an award of 25 basis points for management performance.[13] Therein, the Commission explained:

> Based upon our informed judgment, which includes consideration of *a variety of factors* (emphasis added) including increasing inflation leading to increases in interest rates and capital costs since the rate filing, we determine that a base ROE of 9.75% is reasonable and appropriate for Aqua. When combined with our upward adjustment of 25 basis points to the Company's ROE for management effectiveness, this will produce a final authorized ROE for Aqua of 10.00% (*i.e.*, 9.75% + 0.25% = 10.00%).[14]

However, 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*."[15] Beyond the fact that the ALJs ignore the Commission's determination that Aqua's roster of emergency aid matters is unlike that of any other utility in Pennsylvania, their recommendation also fails to reflect the fact that this is PAWC's third requested rate increase in 4 years, and that in February 2021, February 2022, and January

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13 *Pa. P.U.C. v. Aqua Pa., Inc.*, Docket Nos. R-2021-3027385 and R-2021-3047386 (Order entered May 16, 2022).
14 *Id.* at 178.
15 *Id.* at 173 (emphasis added).

2023, PAWC's customers have experienced an increase in their rates. The management performance adder, if granted, is one more cost these customers must bear and should not be permitted without very good reason.

Without a sound reason beyond PAWC acquiring systems, which its ratepayers then pay for, I&E continues to believe that no business risk or management performance adder is appropriate.

### C. I&E Exception No. 3: The ALJs erred in adopting OCA's proposed methodology for revenue allocation of the Act 11 subsidy. R.D. at 224-227.

The Company recommended that $71 million of wastewater costs be allocated to water customers under Act 11. The ALJs disagreed with the Company's recommendation and instead adopted OCA's proposal. Regarding the OCA approach to the Act 11 subsidy, the ALJs state:

> 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.[16]

I&E continues to recommend the Commission adopt I&E's Act 11 subsidy adjustment. The RD does not persuasively explain why the OCA approach would be more reasonable than the other Act 11 subsidy recommendations proposed in this proceeding. As

[16] RD, p. 227.

such, I&E notes that the reasonableness of its recommended approach has been demonstrated and should be adopted.

I&E witness Kubas was able to effectively eliminate the Act 11 subsidy, while not unreasonably burdening any other customer classes with increases that would cause rate shock. 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.

In fact, the methodology related to the Act 11 subsidy is the same methodology as Mr. Kubas applied in the recent Aqua base rate case, which was accepted by this Commission.[17] In that order, the Commission also recognized that any scale back of water rates must first be applied to the Act 11 allocation.[18]

### D. I&E Exception No. 4: The ALJs erred in rejecting I&E's recommendation to increase rates for the York Bulk customers. R.D. at 224-227.

I&E recommended increasing rates for York Bulk Customers by approximately 50%. I&E explained that it is at best speculative that these customers have competitive alternatives, and, as a result, they should be paying a rate much closer to the cost to serve.

Under present rates, the York Bulk Customers receive a subsidy from the other customers of $9,879,620 and contribute $7,702,598 of revenue.[19] The Company has not provided sufficient evidence to demonstrate these customers have a competitive alternative, and without that information, the rates must be increased to move these customers close to

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17 *Pa. P.U.C. v. Aqua Pa., Inc.,* Docket Nos. R-2021-3027385 and R-2021-3027386 (Order entered May 16, 2022), p. 226.

18 *Id.*

19 I&E Statement No. 3, p. 49.

their cost to serve. Accordingly, I&E recommended that the subsidy decrease and, after applying Mr. Kubas' suggested rate design, the York Bulk Customers continue to receive a significant subsidy of $7,999,227.[20]

The ALJs claim that PAWC witness Aiton's testimony provides assurance that there is a competitive alternative:[21]

> 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 Customers would leave the York system after PAWC's acquisition and pursue alternative treatment.[22]

The Company's claims concerning the viable competitive alternative are, in I&E's view, unsupported. As described by I&E, the Company failed to describe the alternative, and failed to provide the fixed costs or variable costs these customers would incur to utilize the alternative.[23] Further, as explained by I&E having an alternative is entirely different than having an alternative that is both viable and competitive.[24]

The Company has had ample opportunity to evidence of the competitive alternative but has not. Instead, the Company has continued to ask the Commission to rely on the customer's threat that they will leave the system. If a viable competitive alternative exists,

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20 *Id.* at 53.
21 RD, p. 257.
22 RD, pp. 256-257.
23 I&E St. No. 3, p. 48 and St. No. 3-RS, pp. 31-32.
24 I&E RB, p. 34.

the Company must show just exactly what that alternative is because the cost to serve York Bulk Customers is allocated to other PAWC customers. As a result, something more than an unsubstantiated threat to leave the system should be necessary in order for that subsidy to be imbedded in rates. Accordingly, I&E asserts the Commission should reject the ALJs' recommendation and approve the York Bulk rates as proposed by I&E witness Kubas.

### E. I&E Exception No. 5: The ALJs erred in PAWC's scale back of rates recommendation. R.D. at 271-272.

In the RD, the ALJs state "[a]dopting 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 scale back while still allowing for some rate relief for wastewater customers under Act 11."[25]

The RD fails to explain why this approach should be adopted and ignores the precedent set in the recent Aqua base rate case. Therein, the Commission explained that a scale back of water rates should first reduce the Act 11 subsidy.[26] I&E's customer cost analysis, customer charge, and scale back proposals are based on sound Commission ratemaking policies and precedent and should be adopted in total. A reiteration of the I&E scale back is below.

Regarding the water scale back of rates, as explained above, the first step that must be completed 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

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[25] RD, p. 271.

[26] *Pa. P.U.C. v. Aqua Pa., Inc.,* Docket Nos. R-2021-3027385 and R-2021-3027386 (Order entered May 16, 2022), p. 226.

Act 11. However, as explained below, I&E disagrees with the revenue requirements recommended by the ALJs for both water and wastewater operations. 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.

For water operations, both 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.[27]

Regarding wastewater SSS operations, any subsidy from water customers should be first eliminated. That way, water customers will not subsidize any of the SSS Operations. 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 proposed for each rate under the full increase. For example, if the general Residential usage rate is scaled back 50%, the Residential usage rate would increase 15.05% (30.1% X 50%). The increase in the general Non-Residential usage rate should be approximately 24.9% (49.8% X 50%). This will keep the total increase in the Residential class and No-Residential class relatively proportional.

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[27] *Pa. P.U.C. v. Phila. Gas Works*, Docket No. R-2023-3037933, pp. 157 and 166 (Order entered November 9, 2023).

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. No. 3, Sch. 3, p. 1, line 11. The Special Commercial flat monthly charges shown on I&E Ex. No. 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%.[28] 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.[29] 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.[30]

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 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.[31]

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[28] I&E Ex. No. 3, Sch. 3, p. 1, line 19.
[29] I&E Ex. No. 3, Sch. 3, p. 1, lines 20-21.
[30] I&E Ex. No. 3, Sch. 3, lines 35-38.
[31] I&E Ex. No. 3, Sch. 3, p. 2, line 1-21.

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.

Regarding Residential flat rate customers in CSS operations, 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. 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. For example, if the general Residential usage rate is scaled back 50% which would result in the general Residential usage rate increasing 11.7% (23.4% X 50%). The increase in the general Non-Residential usage rate should be approximately 24.7% (49.4% X 50%).[32] 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.[33]

As noted above, the I&E scale back recommendation is based on sound ratemaking principles and Commission precedent, which states that a scale back should first be applied to the Act 11 subsidy.

Therefore, I&E asks that the Commission grant this exception and approve the I&E recommended scale back in determining the rate design for PAWC water and wastewater rates.

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[32] I&E Ex. No. 3, Sch 17, lines 2 and 5.
[33] I&E Ex. No. 3, Sch 17, lines 22-24.

### F. I&E Exception No. 5: The ALJs did not address whether the wastewater rates contained in the I&E Main Brief, Appendix B, pp. 2-6 are adopted in total.

There were various aspects of the I&E wastewater rate design that were not addressed in the RD. One such is example is on page 247 of the RD where the ALJs state that PAWC proposes the Commission reject Mr. Kubas' recommended charges for unmetered rates.[34] The RD, however, remains silent on the ultimate resolution of this issue. Therefore, to clarify any such issues, in conjunction with granting the I&E exceptions noted above related to rate design, I&E requests the Commission affirmatively adopt I&E's wastewater rate design in total as shown in Appendix B of the I&E Main Brief.

The rates proposed by I&E all serve to move customers closer to their cost to serve and represent reasonable increases; therefore, I&E's recommended rates should be adopted in total.

### G. I&E Exception No. 5: The ALJs erred in recommending a maximum water revenue increase of $92.6 million and a maximum wastewater revenue increase of $11.5 million. R.D. at 1.

Because of the flaws in the ALJs' reasoning detailed above, the ALJs arrived at an erroneous revenue increase for PAWC that will result in unjust and unreasonable rates for its customers.

I&E's presentation of expert witness testimony demonstrates that PAWC should receive a revenue increase of no more than $56,050,684.[35] Broken down further, this represents an increase of $29,343,583 to PAWC water operations; an increase of

[34] RD. pp. 247-248.
[35] I&E St. No. 1-SR, p. 14.

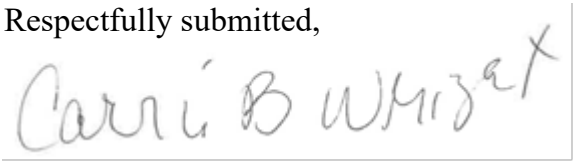
$19,925,077 to PAWC Wastewater Sanitary Sewer Systems (SSS)operations; and an increase of $6,782,024 to PAWC Wastewater Combined Sewer Systems (CSS) operations.[36]

Adjusting the ROE to the more appropriate I&E recommendation of 8.45% and adjusting the Act 11 subsidy to the I&E recommendation will correct two major flaws in the ALJ analysis and adjust the revenue increase to a more appropriate level. These adjustments combined with adopting the I&E's proposed rate design for both water and wastewater, will allow for both the appropriate return for PAWC and just and reasonable rates for PAWC ratepayers.

## III. CONCLUSION

Wherefore, for all the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan, issued on May 7, 2024, be modified as recommended above in the Exceptions proposed by the Bureau of Investigation and Enforcement.

Respectfully submitted,



Carrie B. Wright
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 208185

Dated: May 17, 2024

[36] I&E St. No. 1-SR, pp. 10-13.

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| Pennsylvania Public Utility Commission | : | |
| | : | |
| v. | : | Docket Nos. R-2023-3043189 (Water) |
| | : | R-2023-3043190 (Wastewater) |
| Pennsylvania-American Water Company | : | |

## CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Exceptions** dated May 17, 2024, in the manner and upon the persons listed below:

### Served via Electronic Mail Only

Elizabeth Rose Triscari, Esq.
Teresa K. Harrold, Esq.
Erin K. Fure, Esq.
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
elizabeth.triscari@amwater.com
teresa.harrold@amwater.com
erin.fure@amwater.com
*Counsel for PAWC*

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street
Harrisburg, PA 17102
dzambito@cozen.com
jnase@cozen.com
*Counsel for PAWC*

Kenneth M. Kulak, Esq.
Brooke E. McGlinn, Esq.
Catherine Vasudevan, Esq.
Mark A. Lazaroff, Esq.
Morgan, Lewis & Bockius LLP
2222 Market Street
Philadelphia, PA 19103-2921
ken.kulak@morganlewis.com
brooke.mcglinn@morganlewis.com
catherine.vasudevan@morganlewis.com
mark.lazaroff@morganlewis.com
*Counsel for PAWC*

Adeolu A. Bakare, Esq.
Charis Mincavage, Esq.
Kenneth R. Stark, Esq.
Ryan Block, Esq.
McNees, Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
abakare@mcneeslaw.com
cmincavage@mcneeslaw.com
kstark@mcneeslaw.com
rblock@mcneeslaw.com
*Counsel for PAWLUG*

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

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

Andrew J. Zerby, Esq.
Melanie J. El Atieh, Esq.
David T. Evrard, Esq.
Erin L. Gannon, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
OCAPAWC2023@paoca.org

Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com
*Counsel for Cleveland Cliffs Steel*

Joseph L. Vullo, Esq.
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com
*Counsel for CEO*

Sean M. Gallagher, Esq.
Gallagher Law Group
110 East Diamond Street, Suite 101
Butler, PA 16001
smgallagher@gallagher.legal
*Counsel for Cleveland Cliffs Steel*

J. Chadwick Schnee, Esq.
Schnee Legal Services, LLC
74 E. Main Street, #648
Lititz, PA 17543
chadwick@schneelegal.com
*Counsel for Exeter Township*

Karen O. Moury, Esq.
Eckert Seamans Cherin & Mellott
213 Market Street, 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com
*Counsel for Victory Brewing Company*

Joan E. London, Esq.
Kozloff Stoudt, P.C.
2640 Westview Drive
Wyomissing, PA 19610
jlondon@kozloffstoudt.com
*Counsel for Borough of St. Lawrence*

Lauren M. Burge, Esq.
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
lburge@eckertseamans.com
*Counsel for Victory Brewing Company*

Jessica Eskra, Esq.
Katherine Kennedy, Esq.
City of Scranton Law Department
340 North Washington Avenue
Scranton, PA 18503
jeskra@scrantonpa.gov
kkennedy@scrantonpa.gov
*Counsel for City of Scranton*

Roger Colton
Fisher Sheehan & Colton
34 Warwick Road
Belmont, MA 02478
OCAPAWC2023@paoca.org
*Consultant for OCA*

Ralph C. Smith
Mark S. Dady
Megan Eliasz
Dawn Bisdorf
Larkin & Associates PLLC
15728 Farmington Road
Livonia, MI 48154
OCAPAWC2023@paoca.org
*Consultants for OCA*

Kevin Higgins
Courtney Higgins
Shantell Garrett
Energy Strategies
111 East Broadway, Suite 1200
Salt Lake City, UT 84111
khiggins@energystrat.com
chiggins@energystrat.com
sgarrett@energystrat.com
*Consultants for OSBA*

Jerome D. Mierzwa
Exeter Associates, Inc.
10480 Little Patuxent Parkway, Suite 300
Columbia, MD 21044
OCAPAWC2023@paoca.org
*Consultant for OCA*

Terry Fought
780 Cardinal Drive
Harrisburg, PA 17111
OCAPAWC2023@paoca.org
*Consultant for OCA*

Barbara Alexander
Barbara Alexander Consulting, LLC
44 Beech Street
Hallowell, ME 04347
OCAPAWC2023@paoca.org
*Consultant for OCA*

Brian Kalcic
Excel Consulting
7330 Dorset Avenue
St. Louis, MO 63130
excel.consulting@sbcglobal.net
*Consultant for OSBA*

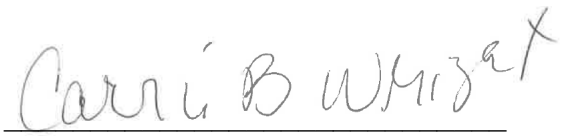
David Garrett
Resolve Utility Consulting PLCC
101 Park Avenue, Suite 1125
Oklahoma City, OK 73102
OCAPAWC2023@paoca.org
*Consultant for OCA*

Harry Geller
118 Locust Street
Harrisburg, PA 17101
hgeller@pautilitylawproject.org
*Consultant for CAUSE-PA*

Robert K. Ralls
254 Red Haven Road
New Cumberland, PA 17070
rralls73@yahoo.com

Kyle Donahue
621 Gibbons Street
Scranton, PA 18505
kyle.23.donahue@gmail.com

Richard Baudino
J. Kennedy & Associates
1347 Frye Road
Westfield, NC 27053
rbaudino@jkenn.com
*Consultant for Cleveland-Cliffs Steel*



Carrie B. Wright
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 208185
(717) 783-6156
carwright@pa.gov