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May 22, 2024

VIA eFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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**Re: Pennsylvania Public Utility Commission v.
Pennsylvania-American Water Company
Docket Nos. R-2023-3043189 and R-2023-3043190**

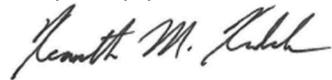
Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceedings is **Replies of Pennsylvania-American Water Company to Exceptions to the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John Coogan** dated May 7, 2024 (the "Reply Exceptions").

As evidenced by the enclosed Certificate of Service, copies of the Reply Exceptions are being served upon all parties of record as well as the Commission's Office of Special Assistants as requested in the May 7, 2024 Secretarial Letter.

If you have any questions, please contact me directly at 215.963.5384.

Very truly yours,



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	DOCKET NOS.: R-2023-3043189 (Water)
	:	R-2023-3043190 (Wastewater)
v.	:	
PENNSYLVANIA-AMERICAN WATER COMPANY	:	

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a true and correct copy **Replies of Pennsylvania-American Water Company to Exceptions to the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John Coogan** on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code Section 1.54:

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	DOCKET NOS.: R-2023-3043189 (Water)
PENNSYLVANIA-AMERICAN WATER COMPANY	:	R-2023-3043190 (Wastewater)
	:	

**REPLIES OF
PENNSYLVANIA-AMERICAN WATER COMPANY
TO EXCEPTIONS**

**To the Recommended Decision of
Deputy Chief Administrative Law Judge Christopher P. Pell and
Administrative Law Judge John M. Coogan**

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TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. REPLIES TO EXCEPTIONS	1
A. The OCA’s Hypothetical Capital Structure Recommendation Is Unreasonable and Unsupported (OCA Exc. 10).....	1
B. The RD Properly Rejected I&E’s Exclusive Reliance on the Discounted Cash Flow (“DCF”) Result in Determining ROE (I&E Exc. 1).....	3
C. The Commission Should Reject the OCA’s Cost of Common Equity Recommendations of 8.7% and 9.1% (OCA Exc. 11).....	4
D. The Commission Should Deny the Exceptions Of I&E and the OCA To the RD’s Upward ROE Adjustment (I&E Exc. 2; OCA Exc. 12)	7
E. The RD Correctly Rejected the OCA’s Proposed Adjustments to PAWC’s Revenue Requirements	10
1. Depreciation Reserve and Expense (OCA Exc. 3, 9)	10
2. Cash Working Capital (OCA Exc. 4)	12
3. Performance Pay and Executive Perquisites (OCA Exc. 6-7)	12
4. Call Center Expense (OCA Exc. 4)	13
F. The ALJs Correctly Rejected the OCA’s Proposed Service-Related Rate Conditions (OCA Exc. 24).....	14
G. The Commission Should Deny the OCA’s Request to Initiate an Investigation of PAWC’s Relationship with American Water Resources (“AWR”) (OCA Exc. 2, 5, 25).....	16
H. The Commission Should Adopt the Revenue Allocation and Rate Structure Recommended by the ALJs.....	17
1. Combined Wastewater and Water Revenue Requirement (I&E Exc. 3).....	18
2. Scale Back of Rates (I&E Exc. 5).....	18
3. Residential Customer Charges (OCA Exc. 15, 16, and 17).....	18
4. I&E’s Proposed Rate Increase for Seven Bulk Customers Served by PAWC’s York Wastewater System (“York Bulk Customers”) (I&E Exc. 4).....	19
I. The Commission Should Reject Scranton’s Contention that the ALJs Incorrectly Applied the Well-Established Legal Standard and Burden of Proof Applied in Public Utility Base Rate Cases (Scranton Exc. 1)	20
J. The ALJs Properly Rejected the OCA’s Proposed Adjustments to the Company’s Affordability Analysis (OCA Exc. 18).....	21

TABLE OF CONTENTS
(continued)

	Page
K. The ALJs Properly Rejected the OCA’s Proposed Changes to PAWC’s Customer Satisfaction Surveys (OCA Exc. 22).....	22
L. The ALJs Correctly Found That PAWC’s Low-Income Customer Outreach, Intake and Screening Are Appropriate and Consistent with Statutory Obligations (CAUSE-PA Exc. 3; OCA Exc. 23).....	22
M. The ALJ Properly Rejected CAUSE-PA’s and the OCA’s Attempts to Impose Universal Service Obligations on PAWC That Apply Only to Electric and Natural Gas Distribution Companies (CAUSE-PA Exc. 1, 2; OCA Exc. 23).....	24
III. CONCLUSION.....	25

TABLE OF AUTHORITIES

Page(s)

Court Cases

McCloskey v. Pa. P.U.C.,
225 A.3d 192 (Pa. Commw. Ct. 2020)21

PPL Elec. Utils. Corp. v. Pa. P.U.C.,
912 A.2d 386 (Pa. Commw. Ct. 2006)16

Popowsky v. Pa. P.U.C.,
683 A.2d 958, 961 (Pa. Commw. Ct. 1996)21

Commission Cases

Interstate Gas Supply, Inc. v. Metro. Edison Co., Pennsylvania Elec. Co., Pa. Power Co., and W. Penn Power Co.,
Docket Nos. C-2019-3013805 et al., 2021 WL 3840884 (Aug. 26, 2021), *aff'd*,
Interstate Gas Supply, Inc. v. Pa. P.U.C.,
298 A.3d 1181 (Pa. Commw. Ct. 2023)17

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

Pa. P.U.C. v. Columbia Gas of Pa., Inc.,
Docket No. R-2018-2647577, 2018 WL 6590854
(Pa. P.U.C. Dec. 6, 2018).....16

Pa. P.U.C. v. Columbia Water Co.,
Docket No. R-2023-3040258 (Opinion and Order entered Jan. 18, 2024)..... *passim*

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).....13

Pa. P.U.C. v. PECO Energy Co. - Gas Div.,
Docket No. R- 2020-3018929 (Order entered June 22, 2021).....2

Statutes and Regulations

71 P.S. § 309.57

66 Pa. C.S. §§ 101 et seq7

66 Pa. C.S. § 523(a)10

66 Pa. C.S. § 1303.....	23, 24
66 Pa. C.S. § 1311(c).....	18
66 Pa. C.S. § 1401.....	23, 24
66 Pa. C.S. § 1501.....	8
52 Pa. Code § 69.711.....	8
52 Pa. Code § 69.711(a).....	10

I. INTRODUCTION

On May 17, 2024, Pennsylvania-American Water Company (“PAWC” or the “Company”) filed with the Pennsylvania Public Utility Commission (the “Commission” or “PUC”) Exceptions (“Exc.”) to the Recommended Decision (“RD”) of Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan (the “ALJs”) issued on May 7, 2024. PAWC hereby replies to Exceptions filed by the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (the “OCA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), and the City of Scranton (“Scranton”).¹

II. REPLIES TO EXCEPTIONS

A. The OCA’s Hypothetical Capital Structure Recommendation Is Unreasonable and Unsupported (OCA Exc. 10)

There is no dispute that PAWC’s actual capital structure is 44.01% long-term debt and 55.99% common equity for water operations and 42.73% long-term debt and 52.87% common equity for wastewater operations.² Only the OCA opposes the RD’s adoption of those capital structures to determine PAWC’s authorized return on equity (“ROE”),³ repeating its arguments that the PUC should impute a hypothetical capital structure to reduce customer costs. The OCA’s position is contrary to Commission precedent.⁴

¹ The 25-page limit imposed on Replies to Exception precludes PAWC from responding to each and every objection raised by the opposing parties. Consequently, PAWC will focus these Replies on what it believes are the most important issues. The Company’s decision to not reply to an Exception does not indicate PAWC’s acceptance of any opposing position. The Company relies upon the positions set forth in its Main Brief and Reply Brief, and urges the Commission to carefully review its briefs in this proceeding for additional background information and analysis.

² RD, pp. 11-12.

³ *Id.*, pp. 150-51.

⁴ See *Pa. P.U.C. v. Aqua Pa., Inc.*, Docket Nos. R-2021-3027385 and R-2021-3027386 (Opinion and Order entered May 16, 2022) (“*Aqua 2022*”) and *Pa. P.U.C. v. Columbia Water Co.*, Docket No. R-2023-3040258 (Opinion and Order entered Jan. 18, 2024) (“*Columbia Water 2024*”).

In *Columbia Water 2024* (p. 83), the Commission reinforced that “an actual capital structure represents [the utility’s] decision, over which it has full discretion, on how to capitalize its rate base.” In approving capital structures with common equity of 63.34% (Columbia Water) and 53.95% (Aqua), the Commission set forth the standard that also applies here:

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.⁵

The OCA contends that PAWC’s actual capital structure “represents an excessive return” and believes a capital structure with 51% equity would “more closely match” the capital structure of the OCA’s proxy group and the capital structure of PAWC’s parent American Water Works, Inc. (“American Water”).⁶ However, PAWC’s cost of equity witness, Ann E. Bulkley, explained that such comparison was inappropriate because the OCA was relying upon the capital structure of utility holding companies (with corporate level debt from unregulated operations) and not utility operating subsidiaries.⁷ When the capital structure of operating utilities are compared, PAWC’s equity ratio was well within the range of average equity ratios for the utility subsidiaries of the proxy group (which ranged from 49.41% to 59.88%, with a mean of 55.88%).⁸ The ALJs further agreed with PAWC that the cases cited by the OCA represented situations where the capital structure was not consistent with a comparable group of utilities.⁹

The Commission has repeatedly rejected the OCA’s arguments for imputing hypothetical capital structures on utilities in place of actual capital structures,¹⁰ and the OCA’s argument that

⁵ *Columbia Water 2024*, pp. 84, 86; *Aqua 2022*, pp. 138-40.

⁶ OCA Exc., pp. 13-14.

⁷ RD, p. 146 (quoting PAWC St. 13-R, p. 73); *see also* PAWC St 13-RJ, pp. 10-12 (further describing flaws in OCA witness Garrett’s use of holding company data for calculating utility operating subsidiary capital structures).

⁸ PAWC St. 13, p. 61.

⁹ RD, pp. 150-51.

¹⁰ *See, e.g., Columbia Water 2024*, pp. 83-86; *Aqua 2022*, pp. 138-41; *Pa. P.U.C. v. PECO Energy Co. - Gas Div.*, Docket No. R- 2020-3018929 (Order entered June 22, 2021), pp. 144-47.

the PUC should now do so for general “equitable” reasons¹¹ is no different. As PAWC’s actual capital structure is consistent with other water utilities and “forms the basis upon which [PAWC] attracts capital,”¹² the Commission should again reject the OCA’s arguments for a hypothetical capital structure and adopt the ALJs’ recommendation.

B. The RD Properly Rejected I&E’s Exclusive Reliance on the Discounted Cash Flow (“DCF”) Result in Determining ROE (I&E Exc. 1)

In its first Exception, I&E contends that the ALJs erred by averaging the results of I&E’s DCF result of 8.45% and I&E’s Capital Asset Pricing Model (“CAPM”) result of 10.44% in recommending a 9.45% ROE prior to an additional 10-basis point enhancement for superior management performance. I&E states that its cost of equity witness, D.C. Patel, properly did not give “specific weight” to his CAPM result in proposing an ROE equal to his DCF result. Furthermore, the ALJs’ decision to average I&E’s DCF and CAPM results was “largely comparing apples to oranges” and “you cannot average two separate methods and expect to get an accurate result, which is why I&E does not do so.”¹³

As the RD found (p. 168), PAWC correctly noted that the PUC has recently adopted use of both the DCF and CAPM models to determine ROE in *Aqua 2022* and *Columbia Water 2024*, explaining that “the DCF model does not directly account for interest rates, consequently, it is slow to respond to interest rate changes.”¹⁴ Furthermore, “PAWC convincingly argued that the conditions that led the Commission to its ROE 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.”¹⁵ Although I&E contends that the 200-basis point gap between I&E

¹¹ OCA Exc., p. 14 & n.9.

¹² *Columbia Water*, p. 83.

¹³ I&E Exc. 5.

¹⁴ *Aqua 2022*, p. 154; *Columbia Water 2024*, p. 105.

¹⁵ RD, p. 168.

witness Patel's DCF result and his CAPM result supports use of his DCF result,¹⁶ the opposite is true. What the ALJs' described as a "notable gap" in Mr. Patel's DCF and CAPM results indicates that Mr. Patel's DCF result is significantly understating the cost of equity in current market conditions and does not justify a DCF-only ROE.¹⁷ The Commission has now twice rejected I&E's efforts to rely solely on DCF results in *Columbia Water 2024* and *Aqua 2022* during the current period of higher inflation and interest rates and should do so once again.

While Ms. Bulkley demonstrated that Mr. Patel's DCF and CAPM calculations contained several errors that, if corrected, resulted in a DCF result of 9.82% and a CAPM result of 11.24%,¹⁸ PAWC chose to except only to the errors in Mr. Patel's calculations arising from his small, five-company proxy group.¹⁹ In that light, the ALJs' decision to average the DCF and CAPM results to determine PAWC's authorized ROE is not an error. The OCA used a similar averaging of its DCF and CAPM results,²⁰ and as Ms. Bulkley explained, a 50/50 weighting places less weight on the higher CAPM result than the Commission appears to have done in both *Aqua 2022* and *Columbia Water 2024*.²¹ The PUC should therefore deny I&E's exception to the RD's reliance on both DCF and CAPM results and the ALJs' calculation methodology.

C. The Commission Should Reject the OCA's Cost of Common Equity Recommendations of 8.7% and 9.1% (OCA Exc. 11)

In its Exceptions (pp. 15-18), the OCA asserts that the RD's recommendation of 9.45% was "too high" and the ALJs should have accepted the OCA's ROE calculations of 8.7% if

¹⁶ I&E Exc., pp. 3-4.

¹⁷ RD, p. 168; *see also* PAWC St. 13, p. 23 (discussing the need to use cost of equity models, such as CAPM, to better reflect expected market conditions); PAWC St. 13-R, pp. 17-19 (discussing Mr. Patel's failure to consider both DCF and CAPM results), 48-49 (explaining that it is unreasonable for Mr. Patel to simply disregard one of two model results because it is higher).

¹⁸ PAWC Main Br., pp. 46-49.

¹⁹ PAWC Exc., pp. 2-8.

²⁰ OCA Exc., p. 16.

²¹ PAWC Main Br, p. 49; PAWC St. 13-R, p. 50.

PAWC's actual capital structures were used, or 9.1% if the OCA's hypothetical capital structure was adopted. PAWC already explained that the OCA's hypothetical capital structure is improper, and the decision of the ALJs to not rely on any component of the OCA's cost of equity analysis is understandable and supported by the evidence in this proceeding.

The OCA's recommended ROE is well below the 9.75% authorized by the Commission just six months ago in *Columbia Water 2024*, and PAWC witness Bulkley detailed two primary errors of OCA witness David Garrett in criticizing Ms. Bulkley's ROE results and calculating his own ROE recommendations.

- Long-term Growth Rate – Mr. Garrett asserted that Ms. Bulkley's long-term earnings per share ("EPS") growth projections (resulting in mean DCF model results between 8.60% and 10.97%) exceeded long-term growth projections of the U.S. gross domestic product ("GDP"), and therefore could not be relied upon in the DCF model, and that the projected growth rates Ms. Bulkley relied upon were short-term and could not be relied upon as long-term growth rates. Ms. Bulkley correctly noted that Mr. Garrett's criticisms on both issues were invalid since the growth rates that he used in his own analyses do not meet the tests by which he tries to measure the appropriateness of Ms. Bulkley's analysis. Failing to respond to Ms. Bulkley's criticisms in his surrebuttal testimony, Mr. Garrett simply declared that DCF model results above 9.4 percent and a growth rate higher than 6.90 percent should be discarded.²²
 - On the first point, Ms. Bulkley correctly noted Mr. Garrett provides no evidence that the growth rate that he relies upon is somehow the maximum growth rate that can be considered in the DCF model. Further, Mr. Garrett used a *higher* long-term dividend growth rate in his DCF analysis than the EPS growth rate that Ms. Bulkley relied upon.²³ Mr. Garrett's application of a GDP growth rate test to check the reasonableness of Ms. Bulkley's EPS growth rates was nonsensical since his own higher growth rate fails his GDP growth rate test.²⁴

²² See OCA St. 3-SR, pp. 2-3; PAWC St. 13-R, pp. 54-55; PAWC St. 13-RJ, pp. 7-8. PAWC notes that Ms. Bulkley's written rejoinder testimony was admitted as PAWC St. 13-RJ at hearings (Tr. 2016-17) but the written testimony was inadvertently labeled PAWC St. 13-SR.

²³ PAWC St. 13-R, pp. 54-55.

²⁴ *Id.*

- Ms. Garrett’s criticism as to the short-term duration of the projection Ms. Bulkley relied upon was also without merit, since he also relied on projected growth rates that are for the period from 2026-2028.²⁵
- Equity Risk Premium (“ERP”) – Mr. Garrett calculated a CAPM result of only 8.8%, relying upon an assumed ERP derived from various surveys and his own calculation of an implied ERP of 5.30%. In contrast, Ms. Bulkley used an ERP that is derived from a market return using *Value Line* projected growth rates for the S&P 500 as a proxy for the overall market. Ms. Bulkley demonstrated that this estimated market return was consistent with historical equity returns over nearly a century, and provided additional analysis by the Federal Reserve Bank of New York of historical ERPs and periods of inflation that supported her calculations.²⁶ She also demonstrated that simply using the same ERP as I&E witness Patel would raise Mr. Garrett’s water utility proxy group CAPM result from 8.68% to 10.6%, resulting in an overall recommended ROE of 10% based on the same averaging of Mr. Garrett’s DCF and CAPM results.²⁷

Although OCA witness Garrett stated the CAPM is “arguably the strongest of the models usually presented in rate cases,”²⁸ the OCA nevertheless tries to support his proposed 9.1% ROE (assuming an improper hypothetical capital structure) by noting that a 9.1% cost of equity is within the low end of PAWC witness Bulkley’s DCF model range (but not her actual recommended range based upon DCF and CAPM results).²⁹ In making this argument, the OCA neglects to address Ms. Bulkley’s testimony (which is consistent with *Columbia Water 2024* and *Aqua 2022*) that it is inappropriate to rely upon understated DCF results given market conditions and that “there have been no relevant regulatory decisions where a commission has determined that the appropriate ROE for a water utility should be set in the range resulting from the use of the minimum growth rates in the DCF model.”³⁰

²⁵ *Id.*, p. 55.

²⁶ PAWC St. 13-R, pp. 56-60; PAWC St. 13-RJ, pp. 8-10.

²⁷ PAWC St. 13-R, p. 60.

²⁸ OCA St. 3, p. 34.

²⁹ OCA Exc. p. 17 (citing OCA St. 3, p. 29); *see also* PAWC St. 13-R, pp. 9-10, 56-57, & Schedule 2, p.1.

³⁰ PAWC St. 13, pp. 36-37.

The OCA’s contention that its recommendation “will enable to the Commission to exercise its discretion in a manner that gives ‘due consideration to’ and protects the interests of consumer interests from paying excessive rates”³¹ is also legally flawed. Notably, the OCA does not cite the Public Utility Code³² for this proposition. Instead, it cites a phrase from its own authorizing legislation as to what the PUC should do (“take such action with due consideration to the interest of consumers”) without quoting the rest of the sentence (“[c]onsistent with [the Commission’s] other statutory responsibilities”).³³ As PAWC witness Paul Hibbard, former chair of the Massachusetts Department of Public Utilities, explained:

“[J]ust and reasonable” is not a one-sided standard to be interpreted to define a range of rate outcomes acceptable only to the consumer. This one-sided perspective ignores or understates the fundamental balance established between requiring a utility to safely and reliably meet the needs of current and future customers in exchange for the ability to recover the costs of doing so, including a return on prudently invested capital sufficient to attract investors.³⁴

In light of the foregoing errors, the RD properly rejected the OCA’s ROE proposal in its entirety.

D. The Commission Should Deny the Exceptions Of I&E and the OCA To the RD’s Upward ROE Adjustment (I&E Exc. 2; OCA Exc. 12)

Both the OCA and I&E except to the ALJs’ recommendation of a 10-basis point ROE enhancement in recognition of PAWC’s superior management performance, particularly its acquisitions and assistance to troubled water and wastewater systems. I&E acknowledges that “PAWC has certainly acquired many small and potentially less viable water and wastewater systems,” but contends that the associated costs are “borne by [PAWC’s] ratepayers” and PAWC benefits from the acquisitions.³⁵ I&E further argues that an upward adjustment erodes cost-

³¹ OCA Exc., p. 16.

³² Hereafter all references to a “Section” are to the Pennsylvania Public Utility Code (“Code”), 66 Pa.C.S. §§ 101 et seq., unless indicated otherwise.

³³ 71 P.S. § 309.5.

³⁴ PAWC St. 16-R, pp. 14-15.

³⁵ I&E Exc., pp. 5-7.

saving measures that PAWC may be implementing, is not appropriate in light of PAWC’s recent rate increases, and is distinguishable from Aqua’s 25-basis point upward adjustment because the Commission stated that Aqua’s emergency aid matters were “unlike any other Pennsylvania utility.”³⁶ The OCA argues that the record does not support an award of an acquisition incentive under the Commission’s policy statement at 52 Pa. Code § 69.711 and PAWC purportedly did not voluntarily acquire Delaware Sewer Company (“Delaware Sewer”) or Winola Water Company (“Winola”).³⁷ The OCA also asserts that such acquisitions are not extraordinary service but an obligation of PAWC as a regulated utility, and PAWC has no constitutional right to an upward ROE adjustment.³⁸

The ALJs correctly conclude that an upward adjustment to PAWC’s ROE is warranted because of PAWC’s “willingness to answer calls for aid to other water and wastewater providers show[ing] that PAWC is doing more than is required under Section 1501 of the Public Utility Code.”³⁹ In *Aqua 2022*, the Commission found that Aqua’s assistance to troubled systems exceeded the assistance provided by other utilities. Similarly here, as recognized by the ALJs, the evidentiary record demonstrates that PAWC is providing superior performance, particularly in the context of acquisitions and emergency support for troubled systems. No party questioned the testimony or credibility of Company witness Ashley E. Everette, PAWC’s Senior Director of Rates and Regulatory, regarding the Company’s 16 acquisitions of very small, less-viable water and wastewater systems over the last ten years.⁴⁰ The OCA is incorrect with respect to PAWC

³⁶ *Id.*, pp. 7-8.

³⁷ OCA Exc., pp. 18-20.

³⁸ *Id.*, pp. 20-23.

³⁹ RD, p. 184.

⁴⁰ PAWC St. 1-R, pp. 43. The Commission dockets of the 16 acquisitions are: Berry Hollow Water (A-2013-2356801 & A-2013-2356881); Scott Twp. (A-2013-2395994); Paint-Elk Wastewater (A-2013-2395998); Hamiltonban Twp. Authority Wastewater (A-2013-2352182); Abbey Woods HOA Water (A-2015-2470483); Shippenville Wastewater (A-2014-2441953); Paint Twp. Water (A-2012-2285320); McEwensville Water (A-2015-

purportedly being ordered to acquire Delaware Sewer and Winola, as PAWC voluntarily acquired Delaware Sewer after a settlement of a proceeding initiated by Delaware Sewer, not the Commission, and voluntarily acquired Winola after settlement of that proceeding following being appointed receiver.⁴¹ And while PAWC did not include details of every investment made in each of the 16 systems, PAWC witness Bruce Aiton testified to PAWC's extensive investments in troubled water systems, including significant investments to replace the Turbotville plant's chlorine gas disinfection system and modernize its supervisory control and data acquisition system and water analyzer equipment.⁴² Moreover, the OCA's suggestion that PAWC's assistance to the communities of East Dunkard and Dimock are not happening within a reasonable period of time or "too nascent" to be considered in this proceeding is incorrect. PAWC's work related to the East Dunkard and Dimock systems is currently ongoing. Before PAWC's receivership, East Dunkard residents had been without potable water for days and experienced extended boil water advisories,⁴³ which PAWC quickly rectified.⁴⁴ Dimock residents have been without potable water for years, which PAWC is in the process of rectifying.⁴⁵ Because no public water system currently exists in Dimock, PAWC is building an entirely new system, which necessarily is a multi-year process.⁴⁶ Contrary to the OCA's view,

2460981); McEwensville Wastewater (A-2015-2460982); Turbotville Water (A-2018-3004191); Turbotville Wastewater (A-2018-3004189); Winola Water Company (P-2018-3006216, C-2018-2644592, and I-2018-3006498); Delaware Sewer Company (I-2016-2526085); SLIBCO Inc. (GCC) Water (A-2020-3023369); Foster Township Wastewater (A-2021-3028676); Creekside (Lancaster Home Builders) Water System (A-2022-3031020).

⁴¹ See *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 (Order entered May 13, 2021); *Pa. Pub. Util. Comm'n and Bureau of Investigation and Enforcement v. Winola Water Co.*, Docket Nos. P-2018-3006216, C-2018-2644592 and I-2018-3006498 (Order entered Aug. 6, 2020).

⁴² PAWC St. 3-R, pp. 10-11. Mr. Aiton also describes PAWC's significant investments in larger systems with significant compliance issues and lack of capital investment which has brought these systems into legal compliance and substantially improved service. See *id.*, pp. 5-13.

⁴³ PAWC St. 1, p. 44.

⁴⁴ PAWC St. 1-R, p. 14.

⁴⁵ PAWC St. 1, p. 46.

⁴⁶ See *id.*

PAWC's multi-year construction of the Dimock water system at no cost to other customers is an accomplishment for which PAWC should be recognized, not penalized.

The general assertions of the OCA and I&E that any upward adjustment is improper because acquisitions of troubled systems are simply an obligation of a regulated water utility and may increase customer rates plainly ignore Section 523, Commission precedent, and the Commission's policies explicitly authorizing an upward ROE adjustment for water and wastewater utilities to foster regionalization and the acquisition of small water and wastewater systems.⁴⁷

Section 523 recognizes that just and reasonable rates may include a rate adjustment based on the efficiency, effectiveness, and adequacy of utility service.⁴⁸ Consistent with prevailing law and Commission policy, the Commission adjusted Aqua's ROE by 25 basis points in *Aqua 2022*. For similar reasons, it is appropriate to increase PAWC's ROE based on its highly effective support of troubled water and wastewater systems as recommended by the ALJs, and doing so preserves reasonable rates for customers. Accordingly, the Commission should deny the exceptions of both I&E and the OCA and grant PAWC's exception by awarding an upward adjustment of 25 basis points in recognition of the Company's efforts.

E. The RD Correctly Rejected the OCA's Proposed Adjustments to PAWC's Revenue Requirements

1. Depreciation Reserve and Expense (OCA Exc. 3, 9)

PAWC's claim for accrued depreciation related to its utility plant-in-service was presented by PAWC witness John J. Spanos, President of Gannett Fleming Valuation and Rate

⁴⁷ 52 Pa. Code § 69.711(a).

⁴⁸ 66 Pa. C.S. § 523(a).

Consultants (“Gannett Fleming”).⁴⁹ 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 PAWC’s book reserve as of June 30, 2023, June 30, 2024 and June 30, 2025.⁵⁰ 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 its water assets (based on plant data through 2021) and in 2020 for its wastewater assets (based on plant data through 2019).⁵¹

The OCA excepts to the ALJs’ acceptance of PAWC’s use of service life/survivor curve information from the most recent water asset service life study (the “2021 Water Service Life Study”) for three of about 50 water accounts.⁵² The OCA does not object to any aspect of the methodology employed by Mr. Spanos – rather, the objection is based on shorter service life *outcomes* for a handful of plant accounts as compared to the service lives in an outdated prior study (the “2016 Water Service Life Study”).⁵³ The OCA further suggests that the PUC should be willing to sacrifice the accuracy of depreciation findings in order to achieve a result that is more palatable to the OCA.⁵⁴

The PUC should reject the OCA’s invitation to arbitrarily ignore the most recent and complete information available. As the ALJs acknowledged (RD, pp. 79-80), Mr. Spanos

⁴⁹ The details underlying the methodology employed by Mr. Spanos, together with all supporting calculations and documentation, are set forth in Exhibit Nos. 11-A through 11-M.

⁵⁰ See generally PAWC St. 11.

⁵¹ PAWC St. 11, p. 7.

⁵² OCA Exc., pp. 5-6, 12.

⁵³ *Id.*; see also OCA Main Br., pp. 43-44.

⁵⁴ OCA Exc., p. 6 (“The OCA submits that the service lives [from the 2016 Water Service Life Study] provide a more rational balancing of interests between the accuracy of depreciation schedules and the consumer interests of ensuring that rates remain reasonable and affordable.”). The OCA further recommends, for the first time, that the results of the 2021 Water Service Life Study be “deferred” and examined in the Company’s next base rate. OCA Exc., p. 12. Presenting a new recommendation at this stage in the proceeding is improper, and, in any event, PAWC has provided substantial evidence supporting the use of the 2021 Water Service Life Study in this proceeding. See, e.g., PAWC Main Br., pp. 17-19.

provided detailed survivor curve information for the three water accounts at issue and showed 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.⁵⁵ Further, PAWC did not strategically “choose” to utilize the 2021 Water Service Life Study for these particular accounts in order to increase depreciation expense, as the OCA suggests.⁵⁶ The service lives and depreciation expense for *all* accounts were properly determined utilizing the most current and complete information available.⁵⁷

2. Cash Working Capital (OCA Exc. 4)

The OCA asserts that the RD’s cash working capital adjustment should be revised based upon the OCA’s proposed hypothetical capital structure that the ALJs rejected. Because the PUC should also reject the OCA’s hypothetical capital structure for reasons discussed in response to OCA Exception No. 10, OCA’s Exception No. 4 should also be denied.

3. Performance Pay and Executive Perquisites (OCA Exc. 6-7)

PAWC uses a mix of fixed and variable (i.e., performance-based) compensation to provide reasonable and market-based compensation to attract and retain customer-committed, dedicated and highly qualified employees.⁵⁸ The OCA recommended adjustments to disallow stock-based compensation and dividend equivalents paid to American Water’s top executives that, in the OCA’s view, align the interests of those top executives with shareholder interests and do not promote reliable and effective public utility service.⁵⁹ The OCA’s exception should be rejected.

⁵⁵ PAWC St. 11-R, pp. 5-10.

⁵⁶ OCA Exc., p. 12 (the Company choice to shorten useful lives to certain water plant accounts increases the revenue requirement”).

⁵⁷ PAWC Main Br., pp. 17-19; PAWC St. 11-R, pp. 5-10.

⁵⁸ PAWC St. 2, pp. 39-40.

⁵⁹ OCA St. 2, pp. 66-72.

As explained in the RD, the Commission approves stock-based compensation where the utility can demonstrate a benefit to customers – including in the recent *Aqua 2022* and *PAWC 2020* proceedings.⁶⁰ In this proceeding, PAWC provided evidence that both customers and utility investors benefit from stock-based compensation because (1) it incentivizes utility employees to promote PAWC’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.⁶¹ While the OCA attempted to distinguish PAWC’s stock-based compensation from the expense approved in *Aqua 2022*, the ALJs in this proceeding properly found the expenses were sufficiently similar in that they both included “stock-based compensation that can produce operational efficiencies to benefit ratepayers.”⁶² The ALJs further acknowledged that similar expenses were approved in *PAWC 2020*.⁶³

4. Call Center Expense (OCA Exc. 4)

Call center expense is necessarily incurred to serve customers, and if PAWC did not utilize third-party call handling agencies, PAWC would incur additional expense for staffing increases to handle the call volumes previously answered by the contractors.⁶⁴ The RD (p. 364) correctly rejected the OCA’s recommendation that an expense PAWC necessarily incurs to serve customers should be excluded for ratemaking purposes.

The OCA excepts to that decision and claims that the RD did not appropriately consider PAWC’s purported failure to take action to address third-party call handling performance

⁶⁰ RD, pp. 105-06 (citing *Aqua 2022* and *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*”).

⁶¹ PAWC St. 2-R, pp. 8-10; *see also id.*, pp. 3-8 (responding to arguments to reduce or eliminate elements of the Company’s performance pay). No party presented evidence that top executives could be attracted or retained with a total compensation level that is substantially below PAWC’s claim.

⁶² RD, p. 105.

⁶³ *Id.*, p. 106. Notably, the OCA has repeatedly failed to acknowledge or attempt to distinguish the PUC’s recent approval of PAWC’s stock-based compensation in *PAWC 2020*.

⁶⁴ PAWC St. 1-R, p. 22.

levels.⁶⁵ However, as described in Section II.F below, OCA witness Barbara R. Alexander's criticisms of PAWC's customer service organization ("CSO") performance ignore key indicators of customer satisfaction and differences between the "service level" data reported by the CSO and Pennsylvania energy utilities. And as the ALJs observed in the RD (p. 364), there were no significant complaints from customers about PAWC's customer service after hearing from 217 witnesses. The OCA's suggestion that the ALJs "overlooked" its views of call handling performance or the extent of PAWC's oversight of third-party agents is wrong. The ALJs clearly set forth the OCA's position in the RD and were not persuaded by Ms. Alexander's testimony.⁶⁶

F. The ALJs Correctly Rejected the OCA's Proposed Service-Related Rate Conditions (OCA Exc. 24)

The OCA's unreasonable characterization of PAWC's customer service as "poor" in this case rests largely on Ms. Alexander's opinion that customers calling PAWC are waiting too long to speak to an agent. Based on that view, the OCA recommends that the PUC impose several conditions to improve customer service, including performance standards (80% of PAWC customer calls to be answered within 30 seconds and a 4% call abandonment rate) and additional oversight of CSO and third-party call handling performance.⁶⁷ The ALJs properly rejected those conditions, reasoning that Section 1501 requires adequate and reasonable but not "perfect" customer service.⁶⁸

In its Exceptions (pp. 37-38), the OCA argues that the ALJs did not afford enough weight to Ms. Alexander's opinion on customer call handling and focused too much on the lack of public input testimony on customer service issues. Contrary to the OCA's contention, the record

⁶⁵ OCA Exc., pp. 11-12.

⁶⁶ RD, p. 121.

⁶⁷ See OCA Main Br., pp. 104-05; OCA Reply Br., pp. 64-66.

⁶⁸ RD, p. 364.

fully supports ALJs' conclusion that PAWC is providing adequate and reasonable water and wastewater service to 780,000 customers in Pennsylvania.

First, as explained in PAWC's Main Brief (pp. 92-95) and Reply Brief (pp. 74-76), the OCA's evaluation of PAWC's customer service narrowly focuses on and misapplies two call handling metrics presented in the Bureau of Consumer Services ("BCS") annual customer service reports for electric and gas utilities. The OCA's Exceptions (p. 38) incorporate by reference Ms. Alexander's testimony (OCA Statement No. 5, p. 23) observing that the 2019-2022 data presented in PAWC's most recent management audit does not meet the service level in the BCS report of answering 80% of calls within 30 seconds. However, as explained by PAWC witness Deborah A. Degillio, the CSO's performance data only reflects calls answered by an agent, while the BCS report allows electric and gas electric utilities to include calls answered by the Interactive Voice Response in their service level data.⁶⁹ The OCA also ignores all other drivers of overall customer satisfaction, including quality and value of service. Accordingly, call wait times that are longer than Ms. Alexander prefers does not constitute substantial evidence of inadequate customer service as the OCA's Exceptions suggest.

Moreover, as the ALJs found, the additional managerial oversight proposed by the OCA is unwarranted because the performance levels of the CSO and third-party call handling agencies are already monitored on a *daily* basis.⁷⁰ Staffing levels of third-party call handling agencies are based on the performance of individual agents against known performance indicators set forth in the service agreements with those contractors.⁷¹

⁶⁹ PAWC St. 9-R, pp. 4-5.

⁷⁰ RD, p. 364.

⁷¹ PAWC St. 9-R, pp. 6-8.

G. The Commission Should Deny the OCA’s Request to Initiate an Investigation of PAWC’s Relationship with American Water Resources (“AWR”) (OCA Exc. 2, 5, 25)

For over two decades, AWR has offered optional products and services, such as water line and sewer line protection plans, to PAWC customers. AWR’s protection plans are not utility services subject to PUC jurisdiction, and the Commission and PAWC have no authority over AWR’s pricing and marketing practices.⁷² In this case, the OCA 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 in December 2021, despite the fact that PAWC maintained the same commercial arrangement with AWR even though they are no longer affiliated.⁷³

In the RD (pp. 381-82), the ALJs analyzed and rejected each of the OCA’s allegations about PAWC’s relationship with AWR that were refuted by Ms. Degillio in her rebuttal testimony.⁷⁴ The OCA takes exception to those findings and repeats the same arguments considered and rejected by the ALJs. Because those arguments were discussed in PAWC’s Main Brief (pp. 101-07), these Reply Exceptions only address the OCA’s major misstatements.

PAWC’s Billing Arrangement with AWR Is Not Discriminatory. The OCA’s Exceptions (pp. 39-40) repeat Ms. Alexander’s claim that PAWC including charges for AWR’s warranty services on its bills discriminates against other providers of these products and services. The OCA would have the Commission believe that other companies want to include their non-

⁷² See *PPL Elec. Utils. Corp. v. Pa. P.U.C.*, 912 A.2d 386, 408 (Pa. Commw. 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); *Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Docket No. R-2018-2647577, 2018 WL 6590854, at *28-*33 (Pa. P.U.C. Dec. 6, 2018) (“Columbia Gas Order”) (holding that the Commission only has the authority to evaluate whether a utility’s jurisdictional services, such as a utility’s billing of warranty products and services, are consistent with the Code).

⁷³ 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 essentially the same by virtue of a Utility Agreement executed by PAWC and AWR at the time of the sale. See CONFIDENTIAL OCA Ex. BA-8.

⁷⁴ PAWC St. 9-R, pp. 12-17.

basic products and services on PAWC's bills. That is not the case. No other entity is seeking access to PAWC's bills.⁷⁵ Therefore, the ALJs correctly concluded that PAWC is not providing any preference or advantage to AWR that runs afoul of the Public Utility Code.

AWR's Use of PAWC's Name and Logo Is Reasonable. Despite no meaningful change in the day-to-day operations between PAWC and AWR after the sale, the OCA alleges that AWR's use of PAWC's name and logo for marketing purposes is deceptive. As Ms. Degillio explained, this is standard industry practice when a utility partners with a non-regulated entity to offer warranty products and services.⁷⁶ 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 Ms. Alexander raised the exact same claims – that the use of the utility name and logo for marketing purposes is misleading.⁷⁷ And, as the ALJs reasoned, 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.⁷⁸ Accordingly, AWR's long-standing use of PAWC's name and logo for marketing purposes does not provide a basis to investigate, prohibit or otherwise prescribe the Company's arrangement with AWR.

H. The Commission Should Adopt the Revenue Allocation and Rate Structure Recommended by the ALJs⁷⁹

⁷⁵ *Id.*, pp. 15-16.

⁷⁶ *Id.*, p. 14.

⁷⁷ *Interstate Gas Supply, Inc. v. Metro. Edison Co., Pennsylvania Elec. Co., Pa. Power Co., and W. Penn Power Co.*, Docket Nos. C-2019-3013805 et al., 2021 WL 3840884, at *10, *12, *19 (Aug. 26, 2021), *aff'd*, *Interstate Gas Supply, Inc. v. Pa. P.U.C.*, 298 A.3d 1181 (Pa. Commw. Ct. 2023).

⁷⁸ PAWC St. 9-R, p. 15.

⁷⁹ I&E's Exc. 6 (set forth in Section II.F of I&E's Exceptions) requests that the Commission affirmatively adopt I&E's wastewater rate design in total. The RD considered and addressed certain modifications to PAWC's proposed rate design – approving some and denying others. RD, pp. 247-57. To the extent the RD did not explicitly approve a proposed modification to PAWC's rate design, the Commission should approve the rate design proposed by PAWC.

1. Combined Wastewater and Water Revenue Requirement (I&E Exc. 3)

I&E excepts to the ALJs' determination (RD, pp. 227) that allocating \$23,832,308 of PAWC's wastewater revenue requirement to the Company's water customers under Section 1311(c) is in the public interest.⁸⁰ While PAWC proposed a higher Section 1311(c) allocation, PAWC does not take Exception to the RD's recommendation that will help mitigate the increase to PAWC's water customers with only a modest effect on water customers' bills.⁸¹ PAWC agrees with the RD that revenue allocation must take into account ratemaking policy and gradualism.⁸² I&E's position does neither, as it would result in unaffordable wastewater rates in clear contravention of the purpose of Section 1311(c).

2. Scale Back of Rates (I&E Exc. 5)

The scale back of rates should be considered in the broader context of revenue allocation, which in turn, as noted above, must take into account ratemaking policy and gradualism. The Commission should adopt the RD's determination that PAWC's proposed scale back of rates is reasonable.⁸³ The ALJs considered and rejected I&E's scale back proposals. The Commission need not reach the same result here as it did in *Aqua 2022* as PAWC's system, rates, and proposed rates differ from Aqua's in material ways. Notably, as the RD recognizes, PAWC's proposal will still allow for some rate relief for wastewater customers under Act 11, which is consistent with Commission policy and the principle of gradualism.⁸⁴

3. Residential Customer Charges (OCA Exc. 15, 16, and 17)

⁸⁰ I&E Exc., pp. 8-9.

⁸¹ See PAWC Main Br., pp. 61-61; PAWC Reply Br., pp. 49-51.

⁸² RD, p. 224.

⁸³ RD, pp. 271-72.

⁸⁴ RD, p. 272.

The OCA's Exceptions repeat the same arguments advanced in the OCA's Main Brief and Reply Brief, which were addressed by PAWC⁸⁵ and considered and rejected in the RD.⁸⁶ The Commission should approve the ALJs' recommendations regarding PAWC's customer charges and proposed scale back for the reasons set forth in the RD.

4. I&E's Proposed Rate Increase for Seven Bulk Customers Served by PAWC's York Wastewater System ("York Bulk Customers") (I&E Exc. 4)

In its Exception No. 4, I&E continues to press for approval of its proposed 50% rate increase for the York Bulk Customers based on its view that PAWC did not present sufficient evidence of the York Bulk Service competitive alternatives to PAWC treatment service. That argument was considered and rejected by the ALJs in the RD (pp. 256-57) since I&E's own witness admitted that the York Bulk Customers have competitive alternatives at the hearing. The Commission should summarily reject I&E's proposal for the same reason.

Contrary to I&E's assertion, the record fully supports the RD's finding that the York Bulk Customers have competitive alternatives. As the ALJs found, the York Bulk customers are in close geographic proximity, which means they could enter into (or already have 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 wastewater treatment plant.⁸⁷ In addition, PAWC witness E. Christopher Abruzzo testified that the York Bulk customers (a) had competitive alternatives when PAWC acquired the York system in 2021, (b) had competitive alternatives when PAWC litigated its 2022 rate case, and (c) continue to have competitive alternatives today.⁸⁸ The record evidence also includes

⁸⁵ PAWC Main Br., p. 62; PAWC Reply Br., pp. 51-52.

⁸⁶ RD, pp. 227-36, 265-72.

⁸⁷ RD, p. 256 (quoting PAWC St. 3, pp. 66-67).

⁸⁸ PAWC St. 6-R pp. 19-22; PAWC Ex. ECA-1R (**CONFIDENTIAL**).

affidavits from the York Bulk Customers demonstrating that they had competitive alternatives in the recent past and continue to have alternatives to bulk wastewater service from PAWC today.⁸⁹

According to I&E, the RD's finding is speculative because PAWC did not present any evidence on what costs the York Bulk Customers would incur to exercise their competitive alternatives.⁹⁰ However, PAWC is not required to introduce evidence of the cost of competitive alternatives, rather only evidence that they exist. Moreover, as explained in PAWC's Main Brief (pp. 64-67) and Reply Brief (p. 55), PAWC's proposed rates for the York Bulk Customers 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. Given that the York Bulk Customers contribute about 54% of the treatment flows to the system, the loss of these customers would not only necessitate a rate increase for retail customers, but would also have an adverse impact on the operation of the wastewater treatment plant. In short, the ALJs' recommendation to increase rates modestly consistent with the existing agreements between PAWC and the York Bulk Customers is just and reasonable.

I. The Commission Should Reject Scranton's Contention that the ALJs Incorrectly Applied the Well-Established Legal Standard and Burden of Proof Applied in Public Utility Base Rate Cases (Scranton Exc. 1)

The RD contains a thorough description of the legal standards and burden of proof to be applied in this proceeding.⁹¹ The ALJs also made several conclusions of law regarding the application of those standards and the burden of proof.⁹² The RD states that PAWC's original rate request "be denied because the Company has not met its burden of providing by a preponderance of the evidence the justness and reasonableness *of every element of its requested*

⁸⁹ PAWC Ex. ECA-2R

⁹⁰ I&E Exc., pp. 10-11.

⁹¹ RD, pp. 54-56.

⁹² *Id.*, pp. 389-91.

increases.”⁹³ The RD then analyzes the substantial evidence established during the course of the proceeding to make a recommendation to the Commission.⁹⁴

Scranton misinterprets both the RD and Commission precedent. The ALJs did not find that PAWC failed to meet its burden or the standard of proof to warrant *any* rate increase; rather, the ALJs found that PAWC did not appropriately support *every element* of its requested increase, which resulted in a recommended increase in rates that is substantially less than the increase sought by PAWC.⁹⁵ Conversely, there were many components of PAWC’s requested increase, and alternative proposals advanced by other parties to the proceeding, that the ALJs determined were adequately supported. It would be an absurd result, and inconsistent with the principle that a public utility is entitled to an opportunity to earn a fair rate of return, to deny PAWC’s rate increase in its entirety because the RD did not find that each and every element of PAWC’s proposed rate increase was adequately supported.⁹⁶

J. The ALJs Properly Rejected the OCA’s Proposed Adjustments to the Company’s Affordability Analysis (OCA Exc. 18)

PAWC witness Charles B. Rea presented, for both PAWC’s water and wastewater services, a detailed Enterprise-Level analysis of affordability analyzing the affordability of service at a high-level over a multi-year period, and a Community-Level analysis analyzing the affordability of service at the individual customer level.⁹⁷ The RD found that PAWC’s affordability analysis is a reasonable way to measure customer affordability.⁹⁸ Nevertheless, the

⁹³ *Id.*, p. 1 (emphasis added).

⁹⁴ *Id.*, pp. 1-393.

⁹⁵ The Commission has broad discretion in determining whether rates are reasonable and is vested with discretion in deciding what factors it will consider in setting or evaluating a utility’s rates. *See McCloskey v. Pa. P.U.C.*, 225 A.3d 192, 195 (Pa. Commw. Ct. 2020) (citing *Popowsky v. Pa. P.U.C.*, 683 A.2d 958, 961 (Pa. Commw. Ct. 1996)).

⁹⁶ Scranton calls attention to the fact that the ALJs recommended a wastewater increase greater than requested by the Company in its initial filing. This is a function of rate design, as the RD recommends a smaller Section 1311(c) allocation than sought by the Company. *See* Section II.I.1.

⁹⁷ PAWC St. 10, p. 5; PAWC St. 10-R, pp. 3-4. *See also* PAWC Main Br., pp. 61, 76-81.

⁹⁸ RD, p. 315.

OCA's Exceptions restate the same arguments that were considered and rejected by the ALJs – that PAWC did not demonstrate that its affordability analysis will lead to just and reasonable rates and that Mr. Rea did not credibly respond to OCA witness Roger D. Colton's critiques of PAWC's affordability analysis and recommendations.⁹⁹ The OCA's position ignores the voluminous testimony and data offered by Mr. Rea in this proceeding.¹⁰⁰

K. The ALJs Properly Rejected the OCA's Proposed Changes to PAWC's Customer Satisfaction Surveys (OCA Exc. 22)

As discussed in the RD (pp. 342-43), PAWC and the CSO leverage multiple sources of customer feedback to monitor the customer experience and maintain high levels of overall satisfaction. In its Exceptions (p. 35), the OCA urges the Commission to require PAWC to include specific questions in its customer satisfaction surveys targeting customers (1) expressing an inability to pay, (2) addressing a pending or completing service termination, or (3) seeking to enroll in a customer assistance program or deferred payment arrangement. As the ALJs found, the OCA's recommendation is unnecessary since PAWC and the CSO already identify trends from customer feedback provided via transaction surveys.¹⁰¹ Those surveys are performed immediately after all phone and customer portal interactions and do not exclude the four categories of customer contacts highlighted by the OCA.¹⁰²

L. The ALJs Correctly Found That PAWC's Low-Income Customer Outreach, Intake and Screening Are Appropriate and Consistent with Statutory Obligations (CAUSE-PA Exc. 3; OCA Exc. 23)

PAWC provided evidence of its robust, multi-prong approach to inform customers about the benefits provided by the H2O Help to Others Program ("H2O Program"), including:

⁹⁹ OCA Exc., pp. 30-31.

¹⁰⁰ See PAWC St. 10, pp. 4-28; PAWC St. 10-R, pp. 3-28; Tr. 2011-15; PAWC Exs. CBR-1 and CBR-2; see also PAWC Main Br., pp. 76-81.

¹⁰¹ RD, p. 345.

¹⁰² PAWC St. 9-R, p. 10.

customer referrals by customer care agents (“CCAs”), 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).¹⁰³

The OCA and CAUSE-PA made a range of customer outreach, intake, and screening recommendations in this proceeding¹⁰⁴ and except to the ALJs’ rejection of their respective proposals.¹⁰⁵ While the ALJs’ rejection was fully supported for the reasons described in PAWC’s Main (pp. 86-88) and Reply (pp. 70-71) Briefs, PAWC wishes to highlight CAUSE-PA’s mischaracterization of Section 1410.1 of the Code, and address CAUSE-PA’s allegation that PAWC is in violation of both Section 1410.1 and Section 1303 of the Code.

Section 1410.1 requires a utility to refer a customer to the universal service program administrator when a customer contacts a utility to make a payment arrangement. CAUSE-PA erroneously interprets the provision to also prohibit the establishment of a payment arrangement until the customer has completed the referral process.¹⁰⁶ The plain language of Section 1410.1, however, includes no such prohibition and CAUSE-PA does not cite to any authority supporting its position.

CAUSE-PA further contends that PAWC is in violation of both Section 1401.1 and Section 1303¹⁰⁷ because, according to CAUSE-PA, PAWC’s H2O Program offerings are “undersubscribed.”¹⁰⁸ Neither statutory provision refers to customer enrollment or participation

¹⁰³ PAWC St. 9, pp. 14-16; PAWC St. 9-R, p. 11; PAWC St. 14-R, p. 7.

¹⁰⁴ See PAWC Main Br., p. 87 (summarizing the OCA and CAUSE-PA proposals)

¹⁰⁵ OCA Exc., p. 34; CAUSE-PA Exc., pp. 18-24.

¹⁰⁶ CAUSE-PA Exc., p. 20 (“[S]ection 1410.1 requires PAWC to refer customers to available universal service programs – including the BDP and Hardship Fund – prior to being placed in payment arrangements), p. 22 (“[W]e recommend that the Commission require PAWC to refer low-income customers to PAWC’s universal service programs prior to being placed in payment arrangements. This is . . . is also mandated in Chapter 14.”).

¹⁰⁷ Section 1303 requires that a utility compute bills under the rate most advantageous to the customer.

¹⁰⁸ CAUSE-PA Exc., p. 20.

in assistance programs, let alone requires a particular program “subscription” level. Instead, these provisions relate to utility processes for program referral and bill computation. The ALJs appropriately examined these processes in making their determination that PAWC is in compliance with Section 1401.1 and Section 1303.¹⁰⁹ Specifically, PAWC witness Degillio testified that when a customer calls in seeking payment assistance, CCAs are trained to direct customers to call the universal service program administrator to enroll in PAWC’s H2O Program offerings.¹¹⁰ Further, once a customer has enrolled in the Bill Discount Program (“BDP”), that customer’s bills are computed in accordance with the applicable discount level.¹¹¹ For these reasons and the reasons described in PAWC’s briefs, the PUC should reject the Exceptions of CAUSE-PA and the OCA concerning low-income customer outreach, intake and screening.

M. The ALJ Properly Rejected CAUSE-PA’s and the OCA’s Attempts to Impose Universal Service Obligations on PAWC That Apply Only to Electric and Natural Gas Distribution Companies (CAUSE-PA Exc. 1, 2; OCA Exc. 23)

The ALJs declined to adopt: (1) the proposal of CAUSE-PA and the OCA to require PAWC to develop and submit a universal services plan (“USP”); and (2) the proposal of CAUSE-PA to require PAWC to implement a comprehensive usage reduction and line repair/replacement program (“Comprehensive Conservation Program”).¹¹² Although CAUSE-PA and the OCA each acknowledge there are no applicable statutory or regulatory mandates for their proposals,¹¹³ they except to the RD. The ALJs properly found that statutory and regulatory

¹⁰⁹ RD, pp. 340-41. Notably, the OCA appears to acknowledge that PAWC’s processes comply with applicable statutes. OCA Exc., p. 34 (“the Company may indeed be adhering to the statutory standards”).

¹¹⁰ PAWC St. 9-R, p. 11; *see also* PAWC Main Br., p. 87.

¹¹¹ As the Company explained in its Main Brief (p. 81), there are three tiers of discounts within the BDP and customers with the lowest incomes receive the highest percentage discounts.

¹¹² RD, pp. 334-35 (Comprehensive Conservation Program); p. 350 (USP).

¹¹³ OCA Exc., p. 36 (“OCA recognizes that PAWC is not required to prepare and file a written plan”); CAUSE-PA Exc., p. 12 (acknowledging there is no water / wastewater utility requirement to submit a USP); CAUSE-PA Exc. pp. 9-10 (acknowledging there is no water / wastewater utility requirement to implement a comprehensive usage reduction and line repair/replacement program).

obligations related to USPs and low-income conservation assistance apply to electric and natural gas distribution utilities only.¹¹⁴ In the absence of applicable statutory or regulatory mandates, it would not be appropriate to single out PAWC and mandate the implementation of a Comprehensive Conservation Program and the filing of a USP.¹¹⁵

III. CONCLUSION

For the reasons set forth above, the Commission should reject the Exceptions filed by I&E, the OCA and CAUSE-PA and, instead, grant the Company's Exceptions and adopt the Recommended Decision with the modifications described therein.

Respectfully submitted,



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¹¹⁴ RD, pp. 334-35 (Comprehensive Conservation Program), 350 (USP); *see also* I&E Main Br., pp. 104-105 (highlighting that only electric and natural gas distribution utilities are currently required to file USPs plans and it would not be appropriate to single out PAWC to provide a USP).

¹¹⁵ RD, p. 334.