

COMMONWEALTH OF PENNSYLVANIA



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May 22, 2024

Via Electronic Filing

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

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

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Exceptions in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

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Dated: May 22, 2024

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY EXCEPTIONS
OF THE
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Dated: May 22, 2024

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I. INTRODUCTION AND OVERVIEW

The Office of Consumer Advocate (OCA) submits these Replies to the Exceptions of Pennsylvania-American Water Company (PAWC or the Company), Bureau of Investigation & Enforcement (I&E), and Pennsylvania-American Water Large Users Group (PAWLUG). For the reasons herein and in the OCA's Exceptions, the OCA respectfully requests that the Commission grant the OCA's Exceptions and Replies to Exceptions and award an increase of no more than that which was recommended by the OCA.

II. RATE BASE

A. Utility Plant-in-Service

Reply to PAWC Exc. No. 3: The ALJs were correct in recommending that BASA and the other not-yet-acquired systems be excluded from rate base, and the Commission should adopt this recommendation. PAWC Exc. at 12-16; R.D. at 56-77; OCA M.B. at 22-32; OCA R.B. at 16-27.

The Company's original rate claim included six systems (two water and four wastewater) that PAWC does not own: the Butler Area Sewer Authority (BASA) wastewater system, the Brentwood Borough (Brentwood) wastewater system, the Sadsbury Township Municipal Authority (Sadsbury) wastewater system, the Audubon Water Company (Audubon) water system, and the Farmington Township (Farmington) water and wastewater systems. The ALJs agreed with the OCA and I&E that it would be premature to include these acquisitions in PAWC's FPFTY. R.D. at 73-77, 56-73; OCA M.B. at 22-32; OCA R.B. at 16-27; I&E M.B. at 10-15; I&E R.B. at 2-6.

During the evidentiary hearing, PAWC agreed to remove the Brentwood acquisition from its claim in this case.¹ Tr. 1969-70; R.D. at 59; PAWC R.B. at 10. In its Exceptions, PAWC only argues that the BASA acquisition should be included in its FPFTY claim (PAWC Exc. at 12-16), stating: "To be clear, PAWC does not except to the ALJs' recommendation to exclude the

¹ On February 22, 2024, the Commission voted to reject PAWC's application to acquire Brentwood. See OCA St. 2SR at 8; *Application of PAWC*, A-2021-3024058 (Mar. 4, 2024), Order at 62-80. www.puc.pa.gov/pcdocs/1818685.pdf

[Sadsbury], Farmington and [Audubon] acquisitions from PAWC’s rates at this time.” PAWC Exc. at 13, n.38. Thus, PAWC has waived any claim that it has to include each of those systems in ratemaking rate base. The ALJs correctly determined that all six of the acquisitions should be excluded from this base rate case and PAWC now accepts that determination for all systems except for BASA. PAWC argues that the ALJs erred by disallowing BASA. *See* PAWC Exc. at 13-15; R.D. at 65-73; OCA M.B. at 22-32; OCA R.B. at 16-27. PAWC is incorrect and its Exception should be denied.

The ALJs considered and did not error in rejecting PAWC’s proposed automatic, stepped increase for the BASA system, and in agreeing with the concerns outlined by the OCA, the ALJs correctly reasoned:

- There is no reasonable certainty that the BASA acquisition will close in the FPFTY, given that “we have no basis to predict how the Commonwealth Court or, if the case is appealed, the Supreme Court will act on the BASA acquisition.” R.D. at 77; OCA M.B. at 30.
- There is no reasonable certainty that the BASA acquisition will close with the same terms approved by the Commission, e.g., an appellate court could remand the BASA acquisition proceeding to the Commission and conditions or renegotiations determined in that remand could impact ratemaking rate base or result in other costs (transaction and closing costs, for example). But under PAWC’s automatic rate increase proposal, rates would increase as claimed in PAWC’s filing, with no recognition of those changes. R.D. at 76-77; OCA M.B. at 30-31; OCA St. 2SR at 6-7, 16-18.

Additionally, as the OCA argued:

- An automatic rate increase triggered only by PAWC “certifying” that closing occurred (PAWC Exc. at 14-15) would circumvent the procedural due process afforded to parties by the requirement that PAWC petition to reopen the record. 52 Pa. Code § 5.571(a); OCA St. 2SR at 18.
- The parties would have been afforded no reasonable opportunity to litigate the underlying revenue requirement, Act 11 shift, or class revenue allocation and rate design issues related to BASA. For example, PAWC proposed to shift \$21.5 million of BASA revenue requirement to PAWC water operations. PAWC M.B., Table Act 11 – Step 2. Under PAWC’s automatic rate increase proposal, rates would increase as claimed by PAWC (e.g., inclusive of a \$21.5 million shift) for *wastewater and water customers* without a record being fully developed or that developed record being reviewed by the ALJs. OCA M.B. at 30-31; OCA St. 2SR at 18.

The cumulative impact of PAWC's automatic, stepped rate increase proposal is to increase uncertainty in ratemaking, create burdensome obstacles and disadvantages for non-utility party litigants, and ultimately not serve the public interest. As discussed in the OCA's Reply Brief, the OCA does not dispute that the Commission can take official notice of a final, unappealable order in another proceeding. 52 Pa. Code § 5.408. However, what PAWC is asking the Commission to do is to take official notice that the acquisitions at issue will close in the FPPTY – a fact that does not exist in the record – and to simultaneously adopt PAWC's ratemaking claims related thereto without modification. OCA R.B. at 22. According to PAWC's position, all of its ratemaking claims related to the acquired property should be approved by the Commission in this proceeding and automatically be allowed in rates at any point in the future after the record is closed (and even after a final order is entered in this proceeding) as soon as the acquisition is approved per a final, unappealable order in a separate proceeding. This is both unnecessary and would produce an unfair and unduly burdensome result.

Should the Commission take official notice of an acquisition closing after the close of the record and allow the ratemaking claims related to such property be automatically allowed in rates, it would circumvent procedural due process rights of the parties that would need to be protected by either reopening the record or giving parties the opportunity to respond to the new fact and to respond to the implications of the new fact on the party's adjustments to PAWC's ratemaking rate base and expense claims related to such property. 52 Pa. Code § 5.408; *Bethlehem Steel Corp. Bar Rod and Wire Div. v. Pennsylvania Elec. Co.*, 1990 Pa. PUC LEXIS 153, *27 (Oct. 23, 1990), Order (*Bethlehem*). With respect to due process owed to parties when the Commission takes official or judicial notice of facts, the Commission has held the following:

Pursuant to Section 5.408 of the Code, 52 Pa. Code § 5.408. in order for us to take official or judicial notice of evidence not part of the official record, the party(ies)

adversely affected must be afforded the opportunity upon timely notice to review and comment on the material introduced.

Bethlehem at *27. While *Bethlehem* addressed a party seeking to offer new evidence in exceptions by way of judicial notice, the holding is equally applicable in these circumstances. Both official and judicial notice are intended to avoid the necessity of producing evidence where there is no need for it, but the opponent is not prevented from disputing the matter by evidence. *Bethlehem* at *27; *In re Albert's Appeal*, 92 A.2d 663, 666-67 (Pa. 1952). Here, given that the record is closed, parties to the base rate case must have an opportunity to respond to the new fact of the occurrence of an acquisition closing, the determinations of the final, unappealable order, and the resulting impact on PAWC's ratemaking claims related thereto. To hold otherwise would create an undue burden on party litigants in base rates cases to take multiple positions on the same issue in a rate case based on various steps of acquisitions being approved by the end of the FPFTY despite none of the closings having occurred on or before the close of the record in the base rate case.

In its Exceptions, PAWC further argues that not allowing the BASA property to be included in its FPFTY ratemaking claims would mitigate regulatory lag, avoid a disincentive for PAWC to acquire systems under Section 1329, and PAWC also suggests it will impact how soon it files its next base rate case. PAWC Exc. at 15. These arguments are meritless. On the issue of regulatory lag, the FPFTY is designed to reduce regulatory lag for utilities; however, for the concept to not be abused, there must be reasonable certainty by the close of the record in the rate case that the property claimed in rate base will be used and useful by the end of the FPFTY. *Pa. PUC v. UGI Utilities, Inc. - Electric Div.*, R-2017-2640058 (Oct. 25, 2018), Order at 27-31 (*UGI 2018*),² *aff'd by McCloskey v. Pa. PUC*, 225 A.3d 192 (Pa. Cmwlth. 2020). PAWC's management chose to file this rate case when it did and is in complete control of when it files for another rate case. If the

² www.puc.pa.gov/pcdocs/1591254.docx

Commission applies *UGI 2018* and requires that the targeted property be owned by closed by the close of the record in the base rate proceeding, it will create certainty and sound regulatory policy, which will aide a utility's management to better time the filing of its rate cases with the certainty of its pending acquisitions, which will ensure that consumers are not paying in rates any more than is necessary for the utility to provide adequate service and earn a fair return on its investments.³

Excluding PAWC's claims for its desired-but-not-yet-acquired plant in this proceeding does not negate PAWC's right to make a claim for the BASA plant in a future rate filing if that plant is, or is reasonably certain to be, owned and used and useful by PAWC in a test year. OCA R.B. at 26; OCA St. 2 at 20. However, excluding such property in this case protects the public interest by ensuring that utility consumers, who ultimately pay the revenue requirement to the utility, will pay enough, *but no more than is necessary*, to ensure that service remains adequate, reliable and safe, while allowing the utility to have the opportunity to recover its costs and earn a fair rate of return on its investments.

Finally, as explained in the OCA's briefs, given that there is no reasonable certainty that the BASA system will be acquired and used and useful by the end of the FPPTY, the Commission should exclude PAWC's claim in rate base additions for improvements to that system.⁴ The reason is simple: a utility cannot add plant to a system it does not own and there is no reasonable certainty

³ Also, PAWC's suggestion – that the frequency of its rate cases may increase if *UGI 2018* decision is followed here – rings hollow given the frequency of PAWC's filings. PAWC uses the DSIC and the FPPTY, and both tools were supposed to reduce rate case frequency; yet this is PAWC's third case in four years, even though it was allowed to include not-yet-acquired property in the 2020/2022 rate case settlements. PAWC files rate cases when it wants and needs to do so and a decision by the Commission to follow applicable law and precedent will not dictate its timing. Indeed, it was PAWC that decided to file the current base rate case within the same year that base rates increased from its 2022 rate filing rather than waiting until the BASA acquisition could be properly included in the FPPTY.

⁴ Consistent with the R.D. and for the reasons set forth here and in the OCA's briefs and testimony, the Commission should exclude BASA, as well as Brentwood, Sadsbury, Farmington and Audubon from rate base and further exclude PAWC's claims for rate base additions for improvements to these systems should similarly be excluded, as well as all related expenses and revenues. R.D. at 77 (utility plant in service and improvements), 80, 124 (accrued depreciation), 84-85, 120 (acquisition adjustments, transaction costs and related amortization expenses), 90-91 (revenues), 118 (acquisition-related expenses, O&M, taxes), 119 (interest expense); OCA M.B. at 32, 31-42; OCA St. 2SR at 25-27.

that the BASA system will be acquired and used and useful by the end of the FPFTY. OCA M.B. at 32; *UGI 2018* at 27-31; 66 Pa.C.S. §§ 315(a), (e); *Pa. PUC v. Pa. American Water Co.*, 2004 Pa. PUC LEXIS 29 (Jan. 29, 2004), Order at *16-18 (*PAWC 2004*); *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983); *Lansberry v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990) (*Lansberry*).

III. EXPENSES

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

Reply to PAWC Exception No. 5: The Commission should adopt the ALJs' recommendation to reject PAWC's proposal to defer and record amounts above or below the projected level of pension and OPEB expenses and production expenses. PAWC Exc. at 18-20; R.D. at 124-35; OCA M.B. 44-46; OCA R.B. at 27-28.

The ALJs properly recognized that pension and OPEB expenses and production expenses are not extraordinary, unanticipated, or non-recurring costs, and therefore should not qualify for regulatory asset treatment. R.D. at 131, 135. Furthermore, the ALJs' reasoning was correct in that a deferral of these expenses would raise concerns regarding single-issue ratemaking. *Id.*

As stated in the OCA's Reply Brief, deferral of a single cost or cost category, in isolation from all other costs, is by definition single issue ratemaking. OCA R.B. at 28. Many costs fluctuate, and examining a single cost without considering others would deny consumers the benefit of offsetting costs and reductions. PAWC's requested deferral would shift the risk of fluctuation away from investors, who are compensated for that risk, to captive ratepayers who would be forced to bear the risk for no compensation. OCA M.B. at 45. As stated in the OCA's Reply Brief, the creation of a deferral account, especially in the presence of a full projected future test year, runs counter to the fundamental ratemaking principle allowing the company the opportunity to recover costs, but not a guarantee. OCA R.B. at 28.

In exceptions, PAWC once again attempts to bootstrap electric utility default service cost recovery and natural gas utility purchased gas cost mechanisms into its argument for a deferred accounting of production costs. PAWC Exc. at 19-20. As stated in the OCA's Reply Brief, this argument is without merit and should be rejected. OCA R.B. at 29. Further, PAWC's argument regarding an alleged net benefit if Pension and OPEB deferral mechanisms would have been in place (PAWC Exc. at 19) was fully rebutted in the OCA's Reply Brief at pages 27 to 28. The Commission should deny PAWC Exception No. 5 and instead adopt the ALJs' recommendation.

IV. RATE OF RETURN

Reply to I&E Exc. No. 1: It is a proper exercise of Commission discretion to adopt an ROE that is based on the fully substantiated testimony of a ROE expert witness in this case. I&E Exc. at 3-5; R.D. at 167-69.

Based on the facts of this case, the OCA agrees with I&E's Exception No. 1 that the ALJs erred in averaging I&E witness Patel's DCF and CAPM results. The cost of equity experts in this case presented recommendations that were based on fully substantiated cost of capital analyses, as required by law,⁵ and the Commission should select from one of those results.

Here, I&E witness Patel did not testify to the averaging method or the result of averaging his DCF and CAPM models. Fatally, there are no findings of fact in the R.D. related to the averaging of I&E's results and there is simply a lack of substantial, legally credible record evidence to support the ALJs recommended 9.45% ROE because to average the results of Mr. Patel's DCF and CAPM is in essence to change the CAPM to something that Mr. Patel did not testify to.

Instead, Mr. Patel testified that he gave no weight to the CAPM analysis:

As discussed earlier in my testimony, my recommended cost of equity is based upon my DCF analysis. For the multiple reasons I explained above, I only present a CAPM analysis to the Commission as a comparison and not for recommendation

⁵ *Pa. PUC v. Pa. Power Co.*, 55 Pa. PUC 552, 579 (1982); *Pa. PUC v. Nat'l Fuel Gas Dist. Corp.*, 73 Pa. PUC 552, 603-05 (1990); *Pa. PUC v. Philadelphia Suburban Water Co.*, 71 Pa. PUC 593, 622-23 (1989).

purposes. It must also be recognized that CAPM inputs are highly subjective, and other than beta, they are not company or industry specific.

I&E St. 2 at 35. Given the lack of substantial evidence of record, it would be error for the Commission to adopt the ALJs' recommendation. 2 Pa.C.S. § 704; *Lower Frederick Twp. Water Co. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980); *Lansberry* at 602.

Furthermore, the OCA did not have a meaningful opportunity in rebuttal or surrebuttal testimonies to respond to Mr. Patel's CAPM and the method of averaging his models. Had I&E witness Patel given any weight to his CAPM for recommendation purposes, OCA witness Garrett could have responded. The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Montefiore Hospital Ass'n of Western Pa. v. Pa. PUC*, 421 A.2d 481, 484 (Pa. Cmwlth. 1980) (*Montefiore*).

In this case, OCA witness Garrett is the witness who testified in direct testimony to a ROE based on the averaging of his 9.4% DCF result and his 8.7% CAPM result, for an overall recommended ROE of 9.1%. OCA witness Garrett testified that in addition to using the DCF Model, to get an accurate assessment of the cost of equity in this case, the CAPM which measures market risk and its impact on individual companies must be used, and so he gave weight to both models for recommendation purposes. OCA St. 3 at 28; OCA M.B. at 52. The parties had the full opportunity to respond to witness Garrett's recommendations in both his DCF and CAPM models, and there is a fully developed record supporting Mr. Garrett's models and his recommended 9.1% ROE in this case. Also, notably, the OCA's proposed ROE for PAWC of 9.1% falls within PAWC witness Bulkley's overall DCF Model range. OCA St. 3 at 29; *see* OCA M.B. at 52-53.

Reply to PAWC Exc. No. 1: The Commission should deny PAWC's Exception No. 1 as no party had the opportunity to respond to the averaging of I&E witness Patel's DCF and CAPM models, let alone with the cherry-picked proxy groups advanced by PAWC for the first time in its Exception. PAWC Exc. at 2-10; R.D. at 145, 167-69.

PAWC's Exception No. 1 should be denied as no party has had a meaningful opportunity to respond in the record to the results that PAWC now recommends in its Exception based on the ALJs' recommendation to average Mr. Patel's DCF and CAPM model results and based on PAWC's picking and choosing which members of the proxy group to include or exclude. Based on PAWC's calculations presented for the first time in its Exception, PAWC argues the ROE should be one of the following 9.76%, 9.88%, 10.05%, or 10.46%. The problem with this approach is that to choose any of them would deprive all parties of their due process rights as these calculations are extra record evidence that the Commission must ignore.⁶ *Montefiore* at 484. Moreover, there is a lack of substantial evidence to support these calculations because to replace the proxy groups inputs in Mr. Patel's DCF and CAPM analyses and then to average the results is in essence to change Mr. Patel's DCF and CAPM analyses to something that Mr. Patel did not testify to. This would place the Commission in the role of creating a record to justify its decision rather than reaching a decision based on the record presented to it. The Commission must take the record as it was developed by the parties and all Commission decisions must be supported by substantial evidence in the record. 2 Pa.C.S. § 704.

Furthermore, putting aside the request to consider evidence that is not in the record, PAWC's Exception urging the Commission to re-run Mr. Patel's DCF and CAPM by excluding the Middlesex Water Company (Middlesex) and including the larger proxy group of distribution utilities is wrong on its face and should be denied because it is reasonable to include Middlesex

⁶ It is well-established that parties cannot introduce new evidence following the close of the record. *Application of Apollo Gas Co.*, 1994 Pa. PUC LEXIS (Feb. 10, 1994), Order at *8-14 (*Apollo Gas*). Any extra-record information the Complainants used in their Exceptions will not be considered. *Id.*

and exclude the larger group of electric and natural gas utilities. As explained in its Main Brief, OCA witness David Garrett and PAWC witness Ms. Bulkley *disagreed* about whether it was reasonable to include six additional electric and natural gas utilities⁷ in the proxy group. PAWC witness Bulkley thought that it was reasonable due to the relatively small number of water utilities available for analysis. Mr. Garrett testified that he believes it is reasonable for the Commission to focus on the results of the water utility group only.⁸ OCA St. 3 at 10-11, Exh. DJG-12. However, in his DCF Model analysis and CAPM analysis results, Mr. Garrett presented three different calculations with the water, non-water, and larger proxy group combined. OCA St. 3 at 10-11, Exh. DJG-12. Given that the results of his DCF Model and CAPM analyses were not materially different when applied to the water-only proxy group and the larger proxy group, for practical purposes, Mr. Garrett chose to use the same larger proxy group⁹ as Ms. Bulkley in recommending a 9.1% ROE. OCA M.B. at 48; OCA St. 3 at 10-11, Exh. DJG-12.

Given that it is Mr. Garrett's testimony that it is reasonable to focus on the water utility group only, I&E witness Patel's removal of the electric and natural gas utilities from his proxy group is a position that the OCA views as reasonable. OCA R.B. at 29. Additionally, Mr. Patel and Mr. Garrett agreed on the inclusion of Middlesex in the water-only proxy group. I&E St. 2 at 11; OCA St. 3, Exh. DJG-2. Accordingly, PAWC's Exceptions urging the Commission to re-run Mr. Patel's DCF and CAPM analyses by excluding Middlesex and including the larger proxy group of distribution utilities should be denied. To accept this result would be to create a Frankenstein's monster of proxy groups that bears no relationship to the record. As such, and for the additional reasons set forth above, PAWC's Exception No. 1 should be denied.

⁷ Atmost Energy Corp, Eversource Energy, NiSource Inc., Northwest Natural Gas Co., ONE Gas, Inc., Spire, Inc.

⁸ American States Water Co., California Water Service Group, Essential Utilities, Middlesex Water Co., SJW Group.

⁹ All the companies listed in footnotes 7 and 8, above.

Reply to PAWC Exc. No. 2: There is no constitutional or statutory requirement to award a public utility with an upward adjustment to ROE for management performance, and based on the facts of this record, not awarding the adder would properly protect the interests of consumers in paying enough but no more than is reasonably necessary to ensure that utility service remains adequate, reliable, and safe. PAWC Exc. at 10-12; R.D. at 183-84; OCA M.B. at 55-60; OCA R.B. at 35-39.

PAWC's Exception No. 2 should be denied. As explained in OCA's Exception No. 12, given that there is no constitutional or statutory requirement to award a public utility with an upward management adder, the Company's adder request thus becomes a question of whether it is an appropriate exercise of Commission discretion to grant the adder. OCA Exc. at 22-23. The ALJs correctly agreed with the OCA that PAWC's testimony of activities supporting a 25-basis point adder to the ROE better reflect PAWC complying with its public service obligations under the law, rather than providing extraordinary service. The ALJs further found that the OCA also convincingly demonstrated that the Company did not show its service was exemplary in all areas. Additionally, the ALJs also correctly found that the significant amount of criticism voiced by PAWC customers, whether through filing of complaints or participation at public input hearings, merit against finding a full award of PAWC's requested 25 basis point adjustment. R.D. at 184 (citations omitted). The ALJs did not err in their recommendation to not award the 25-basis point adder requested by PAWC based on a coherent rationale. As the OCA argued, based on this record the Commission should exercise its discretion and deny an adder, in any amount, as PAWC has mainly shown that it is complying with its public service obligations and has not demonstrated that its performance is exemplary. R.D. at 184; OCA R.B. at 35-39; OCA M.B. at 17-20, 55-60; OCA R.B. at 35-39.

Finally, as argued in OCA's Exception No. 1, PAWC has not demonstrated in this record that its performance overall or that its performance related to the sixteen acquisitions or the

Delaware Sewer or Winola Water acquisitions or the special projects of EDWA¹⁰ and Dimock is exemplary and deserving of a management performance adder. Given this lack of record support, the Commission should exercise its discretion to reject the claim. There is simply no evidentiary basis for the Commission to increase consumer rates by more than \$4.52 million per year – the cost of the 10 basis points recommended by the ALJs – for the performance of PAWC on the record before the Commission. OCA Exc. at 13, n. 8, 18-23.

V. RATE STRUCTURE AND RATE DESIGN

A. Cost of Service Studies – Water Operations

Reply to PAWC Exc. No. 7: PAWC’s maximum hour demand factor is so outdated it cannot reasonably be claimed to represent actual recent demand and the ALJs properly directed the Company to update its analysis for use in the class cost of service study in its next rate case. PAWC Exc. at 25-26; R.D. at 195; OCA M.B. at 63-65; OCA R.B. at 40-41.

In this proceeding, PAWC relied on demand data from a 1998 analysis to determine a maximum hour demand factor for its class cost of service (CCOS) study. OCA M.B. at 63-65; OCA St. 4 at 15-17; OCA R.B. at 40-41; OCA St. 4SR at 6-9; OSBA M.B. at 14-17; OSBA R.B. at 10-11. Although the ALJs accepted PAWC’s cost of service study for purposes of this proceeding, they agreed with the OCA and directed that, in its next base rate case, PAWC should update its analysis of system-wide maximum hour extra capacity to better reflect demands on PAWC’s system and include the results in its water CCOS for that case. R.D. at 195.

In its Exceptions, PAWC repeats arguments that the ALJs considered and did not adopt. *See* R.D. at 185-86, 195. PAWC’s arguments that no one has identified any errors in the 1988 analysis and its results have been accepted in prior PAWC cases, ignores that PAWC’s data and analysis get less reliable with each rate case. PAWC Exc. at 26. The Company’s data cannot

¹⁰ On the same date as filing these Replies, the OCA filed a Motion for Relief Regarding Ex Parte Communications. This Motion was filed and served on all parties to this proceeding.

reasonably or reliably be considered representative of PAWC's actual, recent demand – particularly where PAWC's own witness makes an adjustment to the Company's revenues for the future test years to reflect what he claims has been a “significant and pervasive decline in usage for [residential, commercial and municipal] classes over the past ten years.” PAWC St. 10 (Rea) at 67-72, 78-79. This a continuation of the declining consumption trend Mr. Rea identifies from reports analyzing water usage since 1992 and the impact of energy efficiency legislation in 1992 and 2007 – all of which occurred *after* the 1988 demand analysis relied on by PAWC. *Id.* at 67-70. The Company says this is a large undertaking, with challenges. PAWC Exc. at 26. Fortunately, as it often asserts itself, PAWC is a large, technically, legally, and financially fit utility and the Commission should not heed its reluctance to update its maximum hour demand factor.

The Commission should adopt the ALJs' recommendation to assure that in PAWC's next base rate case the data and analysis are updated to better reflect representative of actual, recent demand on PAWC's system. R.D. at 195.

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

Reply to PAWC Exc. No. 9 and PAWLUG Exc. 2: The ALJs properly directed PAWC to include Rider DIS and DRS customers as separate customer classes in its CCOS study filed with its next base rate case to facilitate review whether negotiated rates are reasonable and in the public interest. PAWC Exc. at 27-28; PAWLUG Exc. at 3-4; R.D. at 203; OCA M.B. at 67; OCA R.B. at 44-45.

The ALJs directed PAWC to provide additional water cost of service information in its future base rate filings and, specifically, to include Rider Demand Industrial Sales (DIS) and Rider Demand Resale Sales (DRS) customers as separate customer classes. R.D. at 203. The ALJs noted that, in the current proceeding, PAWC did not separately determine the costs associated with serving Rider DIS and DRS customers in its water COSS study; the Company simply reflected revenues from Rider DIS and DRS customers as a credit to the overall cost of service. *Id.* at 202-203; OCA M.B. at 67; OCA R.B. at 44-45. The ALJs correctly found that having separate cost of

service information in future rate filings will assist in ensuring that the rates charged to Rider DIS and DRS customers are reasonable and in the public interest. R.D. at 203.

In their Exceptions, PAWC and PAWLUG object to the Company providing cost of service information about Riders DIS and DRS. PAWC Exc. at 27-28; PAWLUG Exc. at 3-4. PAWC argues that these Riders are designed to retain or attract industrial and resale load for the benefit of all PAWC customers. *Id.* PAWC fully misses the mark with its objection. The requirement for the information does not dictate what rates PAWC proposes to charge those customers. OCA R.B. at 44-45. PAWC can continue to negotiate discounted rates. The difference is that the information provided in the CCOS study will enable the Commission and parties to evaluate the reasonableness of the negotiated rates. R.D. at 203; OCA R.B. at 44-45; OCA M.B. at 67-68.

PAWLUG argues that the burden should be on the OCA and other parties to ask for information about cost of service for PAWC's Rider DIS and Rider DRS customers. PAWLUG Exc. at 4. This argument should be rejected. As the ALJs noted in the context of PAWLUG's own request that, with its next rate case, PAWC provide additional information regarding the demand ratios on which it bases its CCOS study, there is limited time during a rate case:

[f]ilings under Section 1308(d) of the Public Utility Code trigger a strict statutory deadline which limits the amount of time available to the parties and the Commission to review the associated filings. However, filing the feasibility study between rate cases will allow more time for review without the many distractions that can be associated with a base rate case.

R.D. at 203-04. The ALJs found the request for PAWC to provide cost of service information for the Riders with its filing to be a reasonable one, and providing the information does not prejudice whether negotiated rates for these customers should be discontinued – it simply facilitates review within the limited time available in a base rate case. Consistent with the ALJs' recommendation, PAWC should be directed to include Rider DIS and DRS customers as separate customer classes in its water CCOS study filed with its next base rate case.

Reply to PAWC Exc. No. 8: The ALJs properly directed PAWC to provide separate CCOS studies for Section 1329 systems because that will assist in determining whether rates for those systems are reasonably reflective of cost of service and provide greater transparency about the Act 11 shift. PAWC Exc. at 26-27; R.D. at 202-03; OCA M.B. at 66-67; OCA R.B. at 44-45.

The ALJs directed PAWC to prepare separate COSS studies in the initial base rate case that includes systems acquired under Section 1329, unless PAWC shows in the underlying Section 1329 proceeding that a separate CCOS study should not be required and, after the initial base rate case, the Company should continue to provide separate cost of service studies for the Section 1329 systems. R.D. at 202-03. PAWC does not except to the first recommendation.¹¹ PAWC Exc. at 26-27, n.72. Regarding the second recommendation, PAWC argues that this is not necessary because it is moving systems toward single tariff pricing and also contrary to that effort. *Id.* at 26-27. This argument should be rejected because the requirement for the information does not dictate what rates PAWC proposes to charge those customers. PAWC can continue to propose rates that move Section 1329 systems towards consolidation with its SSS and CSS divisions. The difference is that the information provided in the CCOS study will enable the Commission and parties to evaluate the reasonableness of the proposed subsidies. R.D. at 203. The ALJs properly found this requirement will “allow greater transparency for the system to determine whether an Act 11 reallocation to subsidize a revenue shortfall is actually in the public interest.” *Id.*; OCA M.B. at 67-68; OCA R.B. at 44-45; *see also* I&E M.B. at 68-69 (differences in rates are permissible only if the utility can demonstrate reasonable basis for the discrepancy).

PAWC also argues that it would be unwieldy to provide separate cost of service studies for the ten Section 1329 acquisitions already consolidated with its revenue requirement and CCOS

¹¹ As shown in the current rate case, having the revenue requirement associated with those acquisitions separately calculated: (1) provides information to establish rates that reflect the costs for the system, (2) shows the magnitude of the subsidy proposed for those systems (see Table 5 from PAWC St. 10 at 47), and (3) facilitates the review and recommended removal of those systems from revenue requirement by parties challenging their inclusion in the FPFTY. OCA M.B. at 68.

studies for its water and general wastewater sanitary sewer operations. PAWC Exc. at 27. This ignores that ALJs adopted the OCA's recommendation, which provides the option for PAWC to provide separate CCOS studies for the Section 1329 systems individually or as two groups – combined sewer service (CSS) wastewater Section 1329 systems and non-CSS wastewater Section 1329 systems. R.D. at 201, 203 (citing OCA M.B. at 68). The OCA specified only that the CSS Wastewater Section 1329 systems should not be grouped with non-CSS Wastewater systems, to maintain the cost of service divide between sanitary-only and combined systems. OCA M.B. at 68, n.37; OCA St. 4 at 21; OCA St. 4SR at 37. Thus, consistent with the ALJs' recommendation, and responsive to the concern raised by PAWC in its Exception about doing separate CCOS studies for each Section 1329 system, the Company can limit the number of studies for Section 1329 systems to those that are included for the first time, and as few as two other studies (non-CSS and CSS).

PAWC's Exception should be denied. As found by the ALJs, this requirement for future CCOS studies is reasonable and will provide greater transparency (R.D. at 203), the need for which is underscored where, as here, the Company proposed to recover 27% of its total wastewater revenue requirement claim from water customers. OCA M.B. at 72; OCA St. 4 at 24 (Table 2).

E. Revenue Allocation and Act 11

Reply to I&E Exception No. 3: The Commission should adopt the OCA's proposed methodology for allocating wastewater revenue requirement to water operations under Act 11. I&E Exc. at 8-9; R.D. at 224-27; OCA M.B. at 71-75; OCA R.B. at 47-51.

I&E argues that the ALJs erred in adopting the OCA's recommended Act 11 shift because “[t]he RD does not persuasively explain why the OCA approach would be more reasonable than the other Act 11 subsidy recommendations proposed in this proceeding.” I&E Exc. at 8. There is no obligation for the ALJs to persuade; that's the job of the parties. The ALJs explained all of the parties' position on the Act 11 subsidy on pages 210 to 224 of the R.D. Following that extensive

summary, the ALJs explained the governing law on Act 11 and the Commission’s discretion for revenue allocation. R.D. at 224-27. The ALJs stated that it was upon their review of the positions of the parties as well as the record that they recommended that the Commission adopt the OCA’s proposed methodology for how much wastewater SSS and CSS revenue requirement should be allocated to water operations. *Id.* at 227. The ALJs clearly reasoned that: “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.” R.D. at 227. Frankly, there is no error here. For the reasons stated by the ALJs, the Commission should adopt the ALJs’ recommendation to use the OCA’s proposed methodology to allocate revenue requirement pursuant to 66 Pa.C.S. § 1311(c).¹²

G. Tariff Structure – Water Rate Design

Reply to PAWLUG Exc. No. 1: PAWC’s updated CCOS study allocates less revenue to the Municipal class than that class’s cost of service, such that an upward adjustment as adopted by the ALJs is reasonable. PAWLUG Exc. at 2-3; R.D. at 247.

PAWLUG excepts to the ALJs’ adoption of the OSBA and Cleveland Cliff’s recommendation that greater revenue should be assigned to the Municipal class than PAWC assigned in its water CCOS study (as corrected in PAWC’s rebuttal). PAWLUG Exc. at 2-3; R.D. at 247. PAWLUG argues that the recommendation conflicts with cost-of-service principles because the corrected PAWC study shows that the Municipal class has a relative rate of return of 1.16, i.e. above its cost of service at present revenues. PAWLUG Exc. at 3. It is the OCA’s understanding that PAWLUG is proposing that PAWC’s updated revenue allocation should be adopted without modification. *Id.* The OCA disagrees and supports the ALJs’ recommendation.

¹² The OCA’s proposed methodology also addresses *how* the Act 11 allocation is assigned to water classes, specifically that it should be based on the *water* cost of service study. R.D. at 216-19; OCA M.B. at 74-75; OCA R.B. at 50-51. No party filed an exception on that issue.

Contrary to PAWLUG's assertion, the record shows that – based on PAWC's *corrected* CCOS study – the Company's revenue allocation would under-allocate costs to the Municipal class.

As shown in PAWC's Exhibit 12-A Revised (Proposed Rates), at proposed rates the system average increase is 24.6% and PAWC is proposing a 16.2% increase for the Municipal class, which would leave that class *short of the cost of service* (cost of service is \$27.1 million compared to revenues of \$26.2 million). By comparison, OSBA proposes to increase revenues for the Municipal class to \$27.83 million compared to OSBA's calculated cost of service for the Municipals class of \$27.88 million, effectively *to match cost of service*. This is a 23.4% increase at PAWC's proposed revenue requirement, still under the system average increase of 24.6%.¹³ OSBA Sch. KCH-12.

As PAWLUG identifies, comparing the different parties' proposals is complicated by the fact that different parties have different water CCOS study results (PAWLUG Exc. at 3), and also that parties proposed different amounts to be shifted under Act 11. *See, e.g.*, PAWC Exh. 12-A; OSBA Sch. KCH-12. That said, as a general matter, the ALJs' recommendation to assign additional revenue to the Municipal class to more closely align its cost of service and revenues is reasonable and supported by the record. This is particularly reasonable as the resulting increase for the Municipal class, with the additional revenue, would still be less than the system average.

I. Tariff Structure - Winter Averaging Proposal

Reply to PAWC Exception No. 13: The Commission should adopt the ALJs' recommendation to reject PAWC's winter averaging proposal because the Company failed to show it would reasonably achieve its stated purpose and would disproportionately and adversely impact low-income customers. PAWC Exc. at 32-33; R.D. at 264-65; OCA M.B. at 80-82; OCA R.B. at 55-56.

The ALJs properly determined to reject PAWC's proposal to change the way it determines the volumetric component of bills for Residential wastewater customers. On weighing the evidence

¹³ As shown in the OCA's water CCOS study, the OCA supports an assignment for Municipals that would bring them close to cost of service – based on the OCA's CCOS study and Act 11 shift, the OCA's recommended increase for the Municipal class is 19.8%. R.D. at 217 (OCA Table 4SR). This falls between the PAWC and OSBA recommendations.

put forth by PAWC and the parties challenging the proposal, the ALJs agreed with the OCA that the Company has failed to show that its proposed methodology for recognizing outdoor wastewater usage would reasonably achieve its stated purpose. R.D. at 264. Further, the ALJs found legitimate concerns that the proposal might have a disproportionate adverse impact on low-income customers. *Id.*; OCA M.B. at 80-82; CAUSE-PA M.B. at 25-27; I&E M.B. at 85-86.

PAWC argues that the ALJs failed to address the Company's testimony that its proposal is "statistically supported," will benefit both higher- and lower-income customers, and that utilities in other states have implemented winter averaging. PAWC Exc. at 33. The statistics that PAWC bases its claim on show that, in fact, the difference between residential customers' usage during the winter average period compared to their usage during the remaining months ranged from 100 to 173 gallons per month during the past few years, which is just 2.4 gallons per day.¹⁴ OCA St. 4 at 43-44, Table 6. The average shower uses 17.2 gallons of water. A standard washing machine uses 20 gallons of water per load. Thus, an extra shower and loads of wash fully account for PAWC's historic difference between Residential winter and summer water usage. *Id.* at 43.

Moreover, PAWC concedes that higher income customers are more likely to benefit from PAWC's winter averaging proposal because they are more likely to be absent from their homes during winter¹⁵ and residents of single-family homes with substantial outdoor water consumption, and thus more likely to have seasonal water usage in the summertime that would no longer be billed for wastewater service. OCA M.B. at 81; PAWC St. 10R at 55. Conversely, the unrebutted

¹⁴ Likewise, PAWC's data shows there is not a substantial variability on a bill basis. OCA M.B. at 81-82; OCA St. 5 at 97. The three-month average median bill (\$62.06) during the "winter months" (as defined in PAWC's proposal), did not substantially differ from the average of the median bills for the remaining nine months (\$63.49). In fact, the January 2023 median residential bill (\$67.43) was identical to the median residential bills in both June 2023 and July 2022 and higher than the median residential bills in each of the other seven non-winter months. OCA St. 5 at 98-99.

¹⁵ PAWC witness Rea did not dispute that, where Residential customers have higher usage in the summer months not due to outdoor usage but because they are absent from their homes in the winter, PAWC's winter averaging proposal would understate summer months usage that flows through the sewer system. OCA M.B. at 82; PAWC St. 10R at 55.

evidence shows that customers who will pay the increase in charges are disproportionately likely to be low income. Indeed, PAWC witness Rea testified that the purpose of the winter averaging proposal is to shift costs from higher-income customers to lower-income customers. *Id.*

While some form of winter averaging has been adopted in other jurisdictions, that does not warrant approval of the specific methodology proposed by PAWC and the various assumptions about summer usage on which it is based, which have been shown to create discrepant results that do not align with cost of service. *See* R.D. at 261-64. The disproportionate harm to the low-income wastewater customers – who will bear the burden of foregone revenue created by winter averaging, with little opportunity to be the recipient of any reduced bills – supports the ALJs’ rejection of the proposed new rate design.¹⁶ *Id.* at 264-65; OCA M.B. at 80-82; OCA R.B. at 55-56.

J. Scale Back of Rates

Reply to I&E Exception No. 5: The Commission should adopt an Act 11 reallocation that results in comparable percentage increases for water and wastewater customers. I&E Exc. at 11-14; R.D. at 271-72; OCA M.B. at 82-83; OCA R.B. at 56.

I&E and the OCA agree that the amount reallocated under Act 11 should be substantially reduced from what PAWC proposed; however, the OCA does not agree with I&E’s recommendation that essentially zero relief should be provided to wastewater customers through an Act 11 assignment. OCA M.B. at 73-74. Thus, the OCA disagrees with the I&E’s position on scale back, i.e. that *any* reduction in the wastewater requirement should be applied first to the Act 11 reallocation. Taking this approach may not provide an adequate level of relief to wastewater customers. I&E Exc. at 11; OCA M.B. at 74. The ALJs properly adopted the OCA’s proposed methodology for allocation of the Act 11 subsidy in this case, which is to provide some rate relief

¹⁶ If adopted, despite the reasoned objections by the ALJs, based on testimony by the OCA, CAUSE-PA and I&E witnesses, the volumetric charges should be made subject to the same low-income discounts to which other PAWC volumetric charges are subject. OCA M.B. at 82; OCA St. 5 at 109.

to PAWC's wastewater customers while still moving Wastewater SSS and CSS rates closer to their cost of service and without excessively burdening PAWC's water customers. R.D. at 227. The OCA maintains that, while the specific amount of revenues shifted under Act 11 should be determined by the Commission based on the authorized Wastewater revenue requirement, an Act 11 reallocation – after scale back – that results in comparable percentage increases for water and wastewater customers would be in the public interest. OCA M.B. at 71-74; OCA R.B. at 47-51.

VI. ALTERNATIVE RATEMAKING REQUESTS

Reply to PAWC Exception No. 6: The Commission should adopt the ALJs' recommendation to reject the Company's proposed alternative ratemaking mechanisms. PAWC Exc. at 20-25; R.D. at 272-307; OCA M.B. at 84-95; OCA R.B. at 57-59.

The ALJs' Recommended Decision properly considered and rejected PAWC's proposed alternative ratemaking mechanisms. R.D. at 293, 307. The ALJs dedicated nearly thirty-five pages of their R.D. to carefully walk through the parties' positions on the revenue decoupling mechanism (RDM) and Environmental Compliance Investment Charge (ECIC) and carefully determined that neither the RDM nor the ECIC were in the public interest. R.D. at 272-307.

The ALJs properly found that the RDM will negate consumer conservation effects and result in consumers giving their savings from conservation back to the company. *Id.* at 292. The ALJs properly found that in light of the Commission Policy statement, the RDM is not a just and reasonable alternative distribution ratemaking mechanism and that it does not provide rate stability, but instead maintains PAWC's revenue levels. R.D. at 292-93. The ALJs also properly found that the ECIC would not allow the Commission to assess the impacts of the ECIC along with other expenses on PAWC ratepayers. R.D. at 307. The ALJs properly concluded that the ECIC would represent single issue ratemaking which is prohibited if it addresses a matter normally considered in a base rate case. *Id.*; *see also* OCA M.B. at 84-85.

Furthermore, as stated in the OCA's Reply Brief, the RDM would resemble a natural unregulated monopoly by shifting risks of declining consumption wholly away from the company, who is compensated for risk, to captive ratepayers who would receive no compensation but would rather effectively lose one of the only ways they can reduce the financial burden of their bill. OCA R.B. at 57-58. Furthermore, as explained in the OCA's Main Brief, the RDM would result in a transfer of costs from higher-income customers to lower income customers because water usage reduction actions are disproportionately taken by higher income households. OCA St. 5 at 79-80; OCA M.B. at 87. Despite PAWC's assertion in its exceptions that the RDM meets the Commission's Policy Statement's 14 factors, as shown in OCA Statement 4 this is not the case. PAWC Exc. at 24-25; OCA M.B. at 88; OCA St. 4 at 54-57, Sch. JDM-6.

As stated in the OCA's Main Brief, PAWC has failed to demonstrate by a preponderance of the evidence that the ECIC will "enhance then safety, security, reliability or availability of utility infrastructure." 66 Pa.C.S. § 1330(a)(2); OCA M.B. at 88. The ECIC attempts to inappropriately shift the risk of recovery of wide-ranging environmental capital investments from the company, who is compensated for risk, to captive ratepayers who under the proposal would be forced to bear the business risk for no compensation. OCA M.B. at 89. Compliance with environmental laws is part of PAWC's duty to meet the requirements of Section 1501 of the code, 66 Pa.C.S. § 1501, and PAWC has already demonstrated that it can do this without any additional incentive or inducement. *Id.* PAWC's contention in exceptions that the ECIC would allow for "ample opportunity to proactively evaluate and challenge PAWC's proposed investments and measures to comply" is not correct. PAWC Exc. at 22. The ALJs properly found that despite PAWC's claims that the environmental plan review process would afford sufficient review, the only way to have a full opportunity to review the plan is within the confines of a rate case. R.D. at 307. As stated in the

OCA's Main Brief, under PAWC's proposal, quarterly updates would take effect on only 10 days' notice. OCA St. 4SR at 28; OCA M.B. at 91. Statutory advocates and consumers have limited resources and cannot realistically expect to review recurring ECIC plan filings with the same degree of scrutiny as a rate case. *Id.*

VII. LOW-INCOME CUSTOMER ASSISTANCE

C. Hardship Fund

Reply to PAWC Exception No. 10: The Commission should adopt the ALJs' recommended changes to the eligibility requirements for PAWC's hardship fund. PAWC Exc. at 28-29; R.D. at 321-328; OCA M.B. at 98-99; OCA R.B. at 62.

In the R.D., the ALJs properly found that an expansion of the eligibility for hardship grants for customers up to 250% of the Federal Poverty Level (FPL) could provide a welcome lifeline to consumers with fragile incomes.¹⁷ R.D. at 327-28. The ALJs also properly reasoned that a \$50 upfront payment requirement to be eligible to receive a hardship grant may present a significant obstacle for those who need the grant the most. *Id.* at 328. The ALJs' recommendation to expand the hardship grant eligibility to include incomes up to 250% of the FPL and remove the \$50 upfront payment requirement both serve to protect consumers and should be accepted by this Commission.

As discussed in the R.D., and by the OCA, customers between 200% to 250% of the FPL may not need a bill discount, but the hardship grant provides a lifeline to these customers with a fragile income. R.D. at 327-28; OCA M.B. at 98; OCA St. 5 at 64-66. This lifeline could be the difference for customers between maintaining service or suffering a disconnection. In exceptions, PAWC alleges that both to 250% of the FPL as well as the removal of the \$50 payment requirement could cause a depletion of the hardship grant before the end of the program year. PAWC Exc. at

¹⁷ A "fragile income" is an income in which the consumer is generally able to pay utility bills without interruption, but due to an unexpected circumstance may be unable to afford a utility bill. Those known as the "working poor" often fall into this category, generally do not have paid sick leave, and unexpected time off work presents a serious risk. OCA St. 5 at 50.

29. This argument is not supported by the record which indicates that the hardship grant program has been undersubscribed. CAUSE-PA St. 1 at 49. In addition to increasing assistance for those who need it, the ALJs' recommendation regarding the increase in FPL percentage should be adopted because it would match the hardship grant FPL eligibility to that of the Bill Discount Program which would create consistency for the consumers and ease administration. Therefore, the ALJs' well-reasoned acceptance of the increase of Hardship grant qualification to 250% of the FPL and removal of the \$50 payment requirement should be adopted.

VIII. SERVICE QUALITY AND CUSTOMER SERVICE ISSUES

C. Water Services Act and Section 12.8 of Water Tariff

Reply to PAWC Exception No. 12: The Commission should adopt the ALJs' recommendation regarding notices upon termination under tariff Section 12.8 to provide the name and contact number for the applicable non-company wastewater provider. PAWC Exc. at 31-32; R.D. at 370-75; OCA M.B. at 105-06; OCA R.B. at 66-68.

In the R.D., the ALJs properly reasoned that customer notices provided upon termination should include additional information, including the name and contact number of the applicable non-company wastewater provider. R.D. at 374, 371-72. PAWC excepted to this portion of the ALJs' decision stating that it would be unduly burdensome to provide this information due to the number of non-company wastewater providers with which PAWC has an agreement. PAWC Exc. at 32. This argument should be rejected. As proposed by PAWC, rather than contact the non-company wastewater provider from whom the customer is facing a termination of service, the customer would instead attempt to contact PAWC to inquire about the termination notice. Given PAWC's less than exemplary call center performance, it is a poor idea to create an additional burden on the PAWC call centers and, moreover, would certainly create an additional burden on consumers who would have an additional step in attempting to resolve their termination with a provider who is not PAWC. *See* OCA M.B. at 102-05; OCA R.B. at 64-66.

As recommended by the ALJs, the OCA's proposed tariff language should be adopted because PAWC has not been shown that it will create an undue burden and will also allow the Company to uphold its Joint Services Agreement with Aqua PA. R.D. at 374.

IX. CONCLUSION

For the reasons herein and articulated in the OCA's Briefs, the OCA respectfully requests that the Commission grant the OCA's Exceptions and Reply Exceptions and adopt the OCA's positions as discussed above.

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Respectfully submitted,

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