

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission : R-2023-3040151 (Wastewater)
Office of Small Business Advocate : C-2023-3044243
Office of Consumer Advocate : C-2023-3044570

v.

Greater Hazleton Community Area :
New Development Organization, Inc. :
t/a CAN DO, Inc. :

Pennsylvania Public Utility Commission : R-2023-3040153 (Water)
Office of Small Business Advocate : C-2023-3044253
Spears Mfg. HazleTownship : C-2023-3044287
Office of Consumer Advocate : C-2023-3044571

v.

Greater Hazleton Community Area :
New Development Organization, Inc. :
t/a CAN DO, Inc. :

RECOMMENDED DECISION

Before
Conrad A. Johnson
Administrative Law Judge

INTRODUCTION

This decision recommends approval of the Joint Petition for Approval of Settlement of Rate Proceeding (Settlement), under 66 Pa.C.S. § 1308, submitted in these proceedings by Greater Hazleton Community Area New Development Organization, Inc.t/a CAN DO, Inc. (CAN DO), the Commission’s Bureau of Investigation and Enforcement (I&E); and the Office of Small Business Advocate (OSBA) (Joint Petitioners).

This decision also recommends dismissing the Complaint filed by the Office of Consumer Advocate (OCA) and deeming as withdrawn the Complaint filed by Spears Mfg. Hazle Township in these proceedings.

The Settlement represents a full settlement of all issues and concerns raised in the instant proceedings.

HISTORY OF THE PROCEEDINGS

A. Rate Filings

Greater Hazleton Community Area New Development Organization, Inc. t/a CAN DO, Inc. (CAN DO), Utility Code 211135, is a jurisdictional public utility serving only commercial and industrial customers. CAN DO serves approximately 119 water and 87 wastewater customers in Luzerne County and Carbon County, Pennsylvania.

On November 3, 2023, CAN DO filed Tariff Wastewater – Pa. P.U.C. No. 4 and Tariff Water – PA PUC No. 4 with the Pennsylvania Public Utility Commission (Commission) at Docket No. R-2023-3040151 and Docket No. R-2023-3040153, respectively, to become effective January 2, 2024. The proposed water tariff would increase the level of rates that CAN DO charges for providing service to its water customers to recover an estimated annual increase in water base rate revenues of \$999,900. This represents an approximate 43.1% increase in CAN

DO's annual revenues at current rates. CAN DO is not proposing a rate increase to its wastewater customers.

CAN DO also proposes changes to the rules and regulations set forth in its Wastewater and Water Tariffs, including but not limited to additional rules regarding limitations of liability. However, the tariff changes to both Tariffs are very similar.

B. Complaints, Appearance, Withdrawal, Petition for Protective Order

On November 10, 2023, Daniel E. Sabo (Mr.Sabo), on behalf of Spears Mfg. Hazle Township (Spears), filed a Formal Complaint at Docket No. C-2023-3044287, against CAN DO's water rate filing.

On November 16, 2023, the Office of Small Business Advocate (OSBA) filed a Formal Complaint at Docket No. C-2023-3044243 against CAN DO's wastewater rate filing and a Formal Complaint at Docket No. C-2023-344253 against CAN DO's water rate filing.

On November 28, 2023, the Commission's Bureau of Investigation and Enforcement (I&E) filed Data Requests upon CAN DO concerning the company's wastewater and water rate filings, thereby effectively entering I&E's appearance in this proceeding.

On December 4, 2023, the Office of Consumer Advocate (OCA) filed a Formal Complaint at Docket No. C-2023-3044570 against CAN DO's wastewater rate filing and a Formal Complaint at Docket No. C-2023-3044571 against CAN DO's water rate filing.

By email dated, December 5, 2023, I informed the parties that I anticipated the Commission would suspend the subject tariff filing at a public meeting before the January 2, 2024, effective date, and that the proceeding would be assigned to me. Accordingly, I directed the parties to discuss their availability for a prehearing conference.

By email directed to me and CAN DO's counsel on December 11, 2023, Mr. Sabo, Plant/Operations Manager for Spears, indicated that Spears was withdrawing its Formal Complaint against CAN DO at Docket No. C-2023-3044287. By email dated December 12, 2023, I informed the parties that an order would issue addressing this withdrawal matter.

On December 12, 2023, CAN DO (Water Division) filed a Petition for Protective Order, representing that counsel for I&E, the OCA, and the OSBA, did not object to the entry of the attached proposed protective order.

C. Rate Suspension and Investigation

By Orders entered December 21, 2023, the Commission instituted formal investigations at Docket Nos. R-2023-3040151, (Wastewater) and R-2023-3040153 (Water) to determine the lawfulness, justness and reasonableness of the CAN DO's existing and proposed rates, rules, and regulations. Accordingly, the Wastewater Tariff and Water Tariff were suspended by operation of law until October 2, 2024, and August 2, 2024, respectively, unless permitted by Commission order to become effective at an earlier date. Under the Commission's Orders, CAN DO, within ten (10) days of the Orders and pursuant to 52 Pa. Code § 53.71, was directed to efile (or file) with the Commission tariff supplements, which would bear no effective date, and post the tariff supplements at the offices of Greater Hazleton Community-Area New Development Organization, Inc. t/a CAN DO, Inc. announcing that the aforementioned tariffs are suspended until October 2, 2024 (Wastewater) and August 2, 2024 (Water). A sample copy of a suspension supplement was in Attachment A of the Orders. On December 22, 2023, CAN DO filed the required suspension tariffs.

On December 21, 2023, the proceedings were referred to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

D. Prehearing Conference Notice and Order

On December 21, 2023, a Notice was issued to the Parties informing them the proceedings were assigned to me as the presiding Administrative Law Judge (ALJ) and that a telephonic prehearing conference would be held on January 4, 2024, at 1:30 p.m. Also, on December 21, 2023, I issued a Prehearing Conference Order concerning regulations pertaining to prehearing conferences, 52 Pa. Code §§ 5.221-5.224, and directed the Parties to file and serve their respective Prehearing Memorandums by January 2, 2024. Various parties filed Prehearing Memorandums. The Prehearing Conference Order cautioned the parties that you must participate in the prehearing conference and that failure to do so would result in dismissal of your case and removal from the Service List.

The prehearing conference convened as scheduled on January 4, 2024. Respective counsel for CAN DO, I&E, OCA and OSBA were present for the prehearing conference. No one was present on behalf of Complainant Spears. Various matters were discussed during the prehearing conference, resulting in the establishment of a litigation schedule. Also, Docket Nos. R-2023-3040151 (Wastewater), C-2023-3044243, C-2023-3044570, C-2023-3044253, and C-2023-3044571 were consolidated at Docket No. R-2023-3040153 (Water).

E. Hearing Notice, Prehearing Order, Written Testimony

On January 10, 2024, the Commission issued telephonic hearing notices for March 20 through 22, 2024. On the same date, I issued a Prehearing Order setting forth the litigation schedule and confirming the consolidation of CAN DO's wastewater rate filing and the Complaints filed in this proceeding with CAN DO's water rate filing at Docket No. R-2023-3040153. The Prehearing Order noted that CAN DO's Petition for a Protective Order (Petition), to which there was no objection to during the conference, would be addressed in a separate order.

The Prehearing Order also stated that considering Spears' email essentially withdrawing its Formal Complaint against CAN DO's water rate filing, Spears would be removed from the Service List, and Spears' withdrawal would be addressed separately.

The parties served discovery, written Direct Testimony, Rebuttal Testimony and Surrebuttal Testimony. Via e-mail of March 19, 2024, CAN DO's counsel informed me that CAN DO, the OSBA and I&E had reached a partial settlement, which was unopposed by OCA.

F. Evidentiary Hearing, Joint Settlement and Protective Order

The evidentiary hearing convened in this proceeding as scheduled on March 20, 2024. Upon stipulation of the Parties their respective written testimony and exhibits were admitted into the record. Additionally, the Joint Petitioners represented it was their intent to file and serve their Settlement and associated proposed findings of fact, proposed conclusions of law, proposed ordering paragraphs, and statements in support of the Settlement by April 1, 2024.

On April 1, 2024, Joint Petitioners filed a Joint Petition for Approval with the following attachments: (1) Appendix A – Proposed Findings of Fact; (2) Appendix B – Proposed Conclusions of Law; (3) Appendix C – Proposed Ordering Paragraphs; (4) CAN DO's Statement in Support of Settlement; (5) I&E's Statement in Support of Settlement; (6) OSBA's Statement in Support of Settlement; (7) CAN DO's Form Tariff Wastewater Supplement No. 2 to PA PUC No. 4; CAN Do's Form Tariff Water Supplement No. 2 to Tariff No. 4., and (8) CAN Do's Proof of Revenue Settlement Revised.

On April 2, 2024, OCA filed a letter stating it had no objection to the Settlement.

On May 21, 2024, I issued an Interim Order granting CAN DO's Petition for a Protective Order.

On May 23, 2024, the Joint Petitioners filed a Stipulation stipulating to the admission into the record corrections to CAN DO's proposed Water Tariff Supplement and

Wastewater Tariffs Supplement. The revised proposed Water Tariff Supplement and Wastewater Supplement were attached to the Stipulation. On May 23, 2024, OCA filed a letter stating that it did not object to the corrections being made in the proposed water and wastewater tariff supplements.

G. Interim Order Admitting Filings into the Record and Closing the Record

By an interim order entered on May 24, 2024, the following documents were admitted into the record: (1) the Joint Petitioner's Joint Petition for Approval of Settlement of Rate Proceeding with attachments filed on April 1, 2024; (2) OCA's April 2, 2024, letter stating it did not object to the Settlement; (3) the Joint Petitioners' May 23, 2024, Stipulation and attached revised proposed Water Tariff Supplement and Wastewater Supplement, as Joint Petitioners' Late-Filed Exhibit A. OCA's May 23, 2024 letter stating that it did not object to the corrections being made in the proposed water and wastewater tariff supplements.

The record in this proceeding consists of the transcripts of the prehearing conference and evidentiary hearing; the parties' written testimonies and exhibits; orders issued; the Settlement with Attachments, CAN DO's Late-Filed Exhibits A and B and OCA's letters not objecting to the Settlement nor the revised proposed water and wastewater tariff supplements.

This Recommended Decision recommends the Settlement be adopted without modification as it is in the public interest and there are no objections thereto.

DESCRIPTION AND TERMS OF SETTLEMENT

Under the principal terms of the Settlement, the Joint Petitioners, CAN DO, I&E and OSBA, agree as follows:

A. WATER

1. Revenue Requirement

a. Following entry of a Commission final order approving this Settlement, CAN DO, Inc. (Water Division) shall file a compliance tariff supplement, effective on one days' notice, with rates designed to produce additional annual water operating revenue of \$670,000.

b. It is recognized by the Joint Petitioners that this is a “black box” settlement that is a compromise of the Joint Petitioners’ positions on various issues.

2. Rate Design

a. CAN DO will charge \$39.00 per month for 5/8” meters for commercial and industrial customers, with the resulting shortfall in revenues to be recovered by proportionally adjusting the Company’s proposed customer charges for the remaining meter sizes applicable to commercial and industrial customers.

b. CAN DO will adjust its proposed usage charges for commercial and industrial customers in order to assign a system average increase to the Commercial and Industrial customers. All other customer classes shall also receive a system average increase, at the settlement revenue requirement level. Attachment A contains the proof of revenues at settlement rates.¹ The Settlement Rates are shown in the proposed water tariff in Attachment B.²

3. Payment Arrangement Program for Commercial and Industrial Customers

a. Within 30 days after entry of the Commission’s final order in these proceedings, CAN DO agrees to meet with OSBA representatives to discuss a formal payment arrangement program for commercial and industrial customers.

¹ Notably the Settlement filed with the Secretary’s Bureau does not contain a document marked “Attachment A.” Here the reference to “Attachment A” apparently is the attachment titled: “Greater Hazleton Community Area New Development Organization, Inc A/K/A CAN DO, Inc. SUMMARY OF APPLICATION OF PRESENT RATES AND PROPOSED RATES 12 MONTHS ENDING JUNE 30 and June 30, 2024.”

² Notably the Settlement filed with the Secretary’s Bureau does not contain a document marked “Attachment B.” Here the reference to “Attachment B” apparently is the attachment titled: “Greater Hazleton Community Area New Development Organization T/A CAN DO, Inc. Water Division Tariff Water – Supp. No. 2 to PA PUC No. 4.”

4. Approval of Tariff

a. The Joint Petitioners agree that the water tariff attached as Attachment B³ should be approved.

5. Stay Out

a. CAN DO, Inc. (Water Division) will not file with the Commission a tariff or tariff supplement proposing a general increase in base rates earlier than two years from the effective date of the tariff supplement described in Paragraph 4.a., provided, however, that the foregoing provision shall not prevent CAN DO from filing a tariff or tariff supplement, pursuant to 52 Pa. Code §§ 69.361-364, for the recovery of principal and interest payments on any new PENNVEST loan(s). OSBA and I&E reserve their rights to fully address this tariff or tariff supplement.

B. WASTEWATER

1. Approval of Tariff

a. The Joint Petitioners agree that the wastewater tariff attached as Attachment C⁴ should be approved.⁵

The Settlement sets forth customary provisions that the Settlement is made without prejudice to each party’s litigation position, that it is conditioned upon the Commission’s approval without modification, that the Joint Petitioners agree to waive the filing of exceptions, if the Commission approves the Settlement without modification, that if the Commission fails to grant approval or modifies any material term or condition of the Settlement, any Joint Petitioner may elect to withdraw from the Settlement upon written notice to the Commission and the other petitioners within five business days and the Settlement will be of no force and effect. Additionally, the Joint Petitioners agree that the Settlement is in the public interest.⁶

³ See n. 2 above.

⁴ Notably the Settlement filed with the Secretary’s Bureau does not contain a document marked “Attachment C.” Here the reference to “Attachment C” apparently is the attachment titled: “Greater Hazleton Community Area New Development Organization T/A CAN DO, Inc. Wastewater Division Tariff Wastewater – Supp. No. 2 to PA PUC No. 4.”

⁵ Settlement at 4-5.

⁶ Settlement at 6.

FINDINGS OF FACT⁷

A. PARTIES

1. Greater Hazleton Community Area New Development Organization, Inc. t/a/ CAN DO, Inc. (“CAN DO” or the “Company”) is a private, nonprofit 501(c)(6) economic development organization. It owns and operates a water system (Utility Code 211135) regulated by the Pennsylvania Public Utility Commission (“Commission”) and a Commission-regulated wastewater system (Utility Code 230123). The Water Division and the Wastewater Division are not separate corporations; they are part of a single corporation that is governed by a single Board of Directors and operates under a single federal identification number. CAN DO St. No. 1 at 3.

2. The Bureau of Investigation and Enforcement (“I&E”) is the prosecutory arm of the Pennsylvania Public Utility Commission (“Commission”) for purposes of representing the public interest in ratemaking and service matters and enforcing compliance with the Pennsylvania Public Utility Code (“Code”) and Commission Regulations and Orders. I&E St. No. 1 p. 1; Implementation of Act 129 of 2008; Organization of Bureaus and Offices, Docket No. M-2008-2071852 (Order entered Aug. 11, 2011).

3. The Office of Small Business Advocate (“OSBA”) is a Commonwealth agency created by Act 181 of 1988 to represent the interests of small businesses before the Commission. 73 P.S. § 399.41.

4. The Office of Consumer Advocate (“OCA”) is a Commonwealth agency created by Act 161 of 1976 to represent the interests of consumers before the Commission. 71 P.S. § 309-2.

⁷ For ease of reference, the Findings of Fact, have been adopted, using the same paragraph numbering as found in the original. Although no substantive modifications were made, the formatting, is slightly modified consistent with the formatting and outlining found within this Recommended Decision.

B. CAN DO'S WATER SYSTEM AND ITS WASTEWATER SYSTEM

5. CAN DO's water system provides service in the Humboldt Industrial Park (located partly in Hazle Township, Luzerne County and partly in East Union Township in Schuylkill County), the McAdoo Industrial Park (located in Banks Township, Carbon County) and the CAN DO Corporate Center (located in Butler Township, Luzerne County). CAN DO St. No. 1 at 4.

6. As of June 30, 2023, CAN DO's water system had 25 commercial customers, 93 industrial customers and 1 wholesale (sale for resale) customer. CAN DO's water system has no residential customers. CAN DO St. No. 1 at 4.

7. CAN DO's water tariff does not have a "commercial" class or an "industrial" class. CAN DO uses the term "commercial customer" to refer to a customer whose property is zoned for commercial use. CAN DO uses the term "industrial customer" to refer to a customer whose property is zoned for industrial use. CAN DO St. No. 3 at 2.

8. CAN DO completes an American Water Works Association water audit each year. For calendar years 2020-2022, CAN DO's non-revenue water ranged from a low of 3.06% to a high of 7.54%. CAN DO St. No. 3 at 7.

9. During the last three years, no formal or informal complaints were filed at the Commission about the water system. CAN DO St. No. 3 at 4.

10. CAN DO's wastewater system provides service in the Humboldt Industrial Park and the CAN DO Corporate Center. CAN DO's wastewater system serves 79 industrial customers and 24 commercial customers. The Company's wastewater system does not serve any wholesale customers, nor does it serve any residential customers. CAN DO St. No. 1 at 4.

11. CAN DO's wastewater tariff does not have a "commercial" class or an "industrial" class. CAN DO uses the term "commercial customer" to refer to a customer whose

property is zoned for commercial use. CAN DO uses the term “industrial customer” to refer to a customer whose property is zoned for industrial use. CAN DO St. No. 3 at 2.

12. No Formal Complaints were filed at the Commission about the wastewater system during the last three years. Two informal complaints were filed, but they were both dismissed quickly because the complainants were not customers of CAN DO. CAN DO St. No. 3 at 12.

C. CAN DO’S WATER RATE REQUEST

Background

13. The Water Division has increased water rates twice in the last 25 years: a 14% rate increase in 2009 and a \$40,000 rate increase in 2011. CAN DO St. No. 1 at 5.

Revenue Requirement

14. CAN DO’s HTY is July 1, 2022-June 30, 2023 and its FTY is July 1, 2023-June 30, 2024. CAN DO St. No. 4 at 6.

15. The Company’s pro forma revenues at present rates, for the year ended June 30, 2024, is \$2,319,000. CAN DO St. No. 4; CAN DO Exhibit GDS-2 at Sheet No. 1a.

16. According to CAN DO’s rate study, at present rates, the Company would have net operating revenue of negative \$328,596 and net operating income of negative \$341,379 at June 30, 2024. CAN DO St. No. 4; CAN DO Exhibit GDS-2 at Sheet No. 1a.

17. According to the Company’s rate study, CAN DO could have requested a rate increase of \$1,136,815, but the Company mitigated that rate increase so that it only requested an increase of \$999,900. CAN DO St. No. 4; CAN DO Exhibit GDS-2 at Sheet No. 1a.

18. In Direct Testimony, I&E initially recommended a rate increase of \$218,585, which its witness testified would provide income available to CAN DO of \$484,683. I&E St. No. 1 at 4.

19. In Rebuttal, the Company agreed to the OSBA's proposed rate schedule, CAN DO St. 2-R at 12-13, which produces an increase in revenues of \$999,814. OSBA St. No. 1, Schedule BK-1.

20. In Surrebuttal Testimony, I&E recommended a rate increase of \$426,351, which its witness testified would yield income available of \$486,047. I&E St. No. 1-SR at 3.

21. The Joint Petitioners compromised at a revenue requirement that will produce an increase in rates of \$670,000. Settlement ¶ II.A.1. This amount is between the amount requested by the Company and the amount proposed by I&E.

Revenue Allocation

22. CAN DO did not submit a cost-of-service study. CAN DO proposed an across-the-board rate increase of approximately the same amount as the overall revenue increase (43.1%). CAN DO St. No. 5 at 11; Supporting Schedule No. 4.

23. OSBA witness Kalcic testified that the Company has customers with 5/8" meters, but the tariff does not include a rate for a monthly charge for such meters. He proposed a monthly charge of \$39.00 per month, and he proposed that the resulting shortfall in revenues be recovered by proportionally adjusting the Company's proposed customer charges for the remaining meter sizes applicable to retail service. OSBA St. No. 1 at 6-7.

24. CAN DO agreed to Mr. Kalcic's recommendation and proposed rate structure. CAN DO St. No. 2-R at 2, 13.

25. I&E also agreed to the OSBA's rate structure proposal. I&E St. No. 2-R at 9.

26. The Settlement proposes a proportionate scale-back in rates, based on the OSBA's proposed rate schedule in Exhibit BK-1. Settlement ¶ II.A.2 and Attachment A.⁸

Formal Payment Arrangement Program

27. OSBA witness Kalcic recommended that CAN DO develop and implement a formal payment arrangement program for commercial and industrial customers. OSBA St. No. 1 at 9-10.

28. CAN DO agreed to meet with OSBA to discuss this proposal. Settlement ¶ II.3.a.

D. CAN DO'S PROPOSED MODIFICATIONS TO ITS WATER RULES AND REGULATIONS

29. CAN DO proposed extensive modifications to the rules and regulations in its water tariff. These changes are intended to: ensure that the tariff reflects current best practices for a Commission-regulated water utility, improve the consistency of CAN DO's water and wastewater rules and regulations, improve the clarity and comprehensiveness of the rules and regulations, and include provisions recommended in the Commission's sample tariff for a water utility. CAN DO St. No. 1 at 7-9; CAN DO St. No. 3 at 9-11; CAN DO Exhibit JL-3.

⁸ See n. 2 above.

E. CAN DO'S PROPOSED MODIFICATIONS TO ITS WASTEWATER RULES AND REGULATIONS

30. CAN DO is not proposing to change rates for its wastewater system. The Company believes that its existing rates continue to be just and reasonable. CAN DO St. No. 1 at 10.

31. CAN DO proposed extensive modifications to the rules and regulations in its wastewater tariff. These changes will implement an Industrial Pretreatment Program ("IPP"). In addition, CAN DO proposes changes that are intended to: improve the consistency of CAN DO's water and wastewater rules and regulations, improve the clarity and comprehensiveness of the rules and regulations, and include provisions recommended in the Commission's sample tariff for a water utility. CAN DO St. No. 1 at 11-13; CAN DO St. No. 3 at 14-19; CAN DO Exhibit JL-6.

32. CAN DO also proposes to modify its wastewater tariff to more completely describe the Company's service territory. CAN DO St. No. 1 at 10; CAN DO Exhibit JL-6.

DISCUSSION

A. Legal Standards

Every rate made, demanded, or received by any public utility shall be just and reasonable, and in conformity with regulations or orders of the Commission.⁹ Pursuant to the just and reasonable standard, a utility may obtain "a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment."¹⁰

⁹ 66 Pa.C.S. § 1301.

¹⁰ *City of Lancaster Sewer Fund v. Pa. Pub. Util. Comm'n*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002).

To accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest.¹¹

It is the policy of the Commission to encourage parties to contested on-the-record proceedings to settle the dispute. *See* 52 Pa. Code § 5.231(a). § 5.231. Settlements eliminate the time, effort and expense of litigating a matter to conclusion, which may include review of the Commission's decision by the appellate courts of Pennsylvania. Such savings not only benefit the individual parties, but also the Commission and ratepayers of the utility.

Concerning rate case litigation, the Commission's policy states as follows:

[T]he results achieved from a negotiated settlement or stipulation, or both, in which the interested Parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding."^{12]}

The general benchmark guiding approval of a settlement is whether the proposed terms of the settlement promote the public interest.¹³ The Commission has explained, as a compromise of the signatory parties' position, a settlement arguably fosters the public interest.¹⁴

Additionally, as discussed below, the Joint Petitioners have submitted separate Statements in Support of the Settlement, providing specific reasons from each Petitioner's position for approval of the Settlement.

¹¹ *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991) (*C.S. Water*).

¹² 52 Pa. Code § 69.401.

¹³ *See Warner v. GTE North, Inc.*, Docket No. C-00902815 (Opinion and Order entered Apr. 1, 1996); *CS Water*.

¹⁴ *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa.P.U.C. 1 (1985).

B. The Joint Petitioners' Respective Positions on the Settlement

1. CAN DO's Position

CAN DO argued the following in support of the Settlement.

A. Water

1. Revenue Requirement

The Joint Petitioners have reached a “black box” settlement on the revenue requirement. They propose a rate increase of \$670,000 (approximately 28.89% over present revenues). This amount represents a reasonable compromise between the Company’s position (an increase of \$999,900) and I&E’s position (an increase of \$426,351). I&E St. No. 1-SR at 3. Neither OSBA nor OCA introduced evidence concerning the revenue requirement.

By way of background, the Water Division has not raised rates since December 2011 (and that rate increase was only \$40,000). *Pa. Pub. Util. Comm’n v. CAN DO, Inc. (Water and Wastewater Divisions)*, Docket No. R-2011-2238805 (Order entered Dec. 15, 2011). The Company’s rate study estimated that, at present rates, the Water Division would lose approximately \$341,379 for the fiscal year (“FY”) ending June 30, 2024. Such losses are not sustainable. CAN DO St. No. 1 at 6.

In December 2023, CAN DO was advised that the City of Hazleton Authority (which sells water to CAN DO) was raising rates by 12%, effective January 1, 2024. This development will increase costs to CAN DO by approximately \$70,000 in FY 2025. CAN DO St. No. 4 at 11; CAN DO St. No. 2 at 6. Since CAN DO learned of this rate increase after filing the instant rate case, the 12% increase in purchased water expense was not factored into CAN DO’s rate increase.

CAN DO asserts that the Settlement is in the public interest because it allows the Water Division to increase rates in an amount that will eliminate its expected deficit, pay the increased rate for purchased water, and enable the Company to continue to provide safe, adequate, and reasonable service to customers. The Settlement will allow CAN DO to obtain “a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment.” *City of Lancaster Sewer Fund v. Pa. Pub. Util. Comm’n*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002).

The Settlement is also in the public interest in that it mitigates the rate increase even more than was proposed by the Company. The agreed-to revenue requirement is approximately 58.98% of the Company’s Unmitigated rate request, and approximately 67.0% of the Company’s Mitigated rate request. The Settlement therefore protects CAN DO’s ratepayers by ensuring that rates increase slowly over time, consistent with the Commission’s policy of gradualism. CAN DO St. in Support at 5.

In short, the revenue requirement figure in the Settlement is reasonable and in the public interest because it balances the interests of the public utility and the consumer. The revenue requirement figure contained in the Settlement therefore should be approved.

2. Rate Design

Where, as here, a public utility submits a general base rate case proposing an increase of less than \$1,000,000, the Commission’s regulations do not require a cost-of-service study. CAN DO did not submit a cost-of-service study. Instead, it proposed a proportionate increase in rates for all customer classes. An across-the-board rate increase is a well-established ratemaking tool to design just, reasonable and non-discriminatory rates, especially when a cost-of-service study is not performed. *See, e.g., Pa. Pub Util. Comm’n v. Total Env’t Sol., Inc. – Treasure Lake (Water and Wastewater Divisions)*, Docket No. R-00072493, Recommended Decision issued May 29, 2008 at 100-101 (Order entered Jul. 30, 2008).

During the litigation, the OSBA proposed a change in CAN DO's proposed tariff because the Company's tariff does not currently include a monthly rate for 5/8" meters. The OSBA further proposed proportionally adjusting the Company's proposed customer charges for the remaining meter sizes applicable to commercial and industrial customers. The Company and I&E agreed with the OSBA's proposals, and these proposals are reflected in the Settlement Rates shown in Attachment B¹⁵ to the Settlement.

The Settlement proposes that all customer classes receive a system average increase at the settlement revenue requirement level. Such a proportionate increase is reasonable and in the public interest, considering the lack of a cost-of-service study.

For all these reasons, the rate design provisions of the Settlement are reasonable and in the public interest and should be approved.

3. Payment Arrangement Program for Commercial and Industrial Customers

During the litigation, the OSBA proposed that CAN DO develop and implement a formal payment arrangement program for commercial and industrial customers. OSBA St. No. 1 at 9. CAN DO is open to adopting such a program but wants additional information about the proposal before committing to developing and implementing such a program. CAN DO St. No. 1 at 2. Considering the limited time for exchanging information about the proposal during the litigation, CAN DO reasonably agreed to meet with OSBA staff within 30 days after entry of the Commission's final order in these proceedings. Settlement ¶ II.A.3. During that meeting, OSBA staff can provide additional information about its proposal and CAN DO can ask questions to ensure a complete understanding of what the OSBA is requesting it to do.

This provision in the Settlement balances the interests of the public utility and its customers (all of whom are commercial and industrial customers). This provision is therefore reasonable and in the public interest and should be approved.

¹⁵ See n. 2 above.

4. Approval of Tariff

As stated above, the Water Division’s filing proposed extensive changes to the rules and regulations in the water tariff. This was the first comprehensive review of the water tariff’s rules and regulations in at least two decades. The revisions ensure that the tariff reflects current best practices for a Commission-regulated water utility. The revisions include several provisions based on language in the Commission’s sample tariff for a water utility.¹⁶ The revisions also promote consistency between the water tariff’s rules and regulations and the wastewater tariff’s rules and regulations. Since many CAN DO customers are both water and wastewater customers, these changes should facilitate customer understanding of both tariffs. CAN DO St. at 7-9.

The Joint Petitioners agree that the water tariff should be approved. Settlement ¶ III.A.4. Considering that no party has contested any provision in the Water Division’s proposed rules and regulations, this Settlement provision is reasonable and in the public interest and should be approved.

5. Stay Out

As is customary in settlements of rate cases before the Commission, the instant Settlement includes a stay out provision. Specifically, CAN DO will not propose a general increase in base rates earlier than two years from the effective date of the water tariff. However, CAN DO retains the right to file a tariff or tariff supplement, pursuant to 52 Pa. Code §§ 69.361-364, for the recovery of principal and interest payments on any new loans from the Pennsylvania Infrastructure Investment Authority (“PennVest”). OSBA and I&E reserve their rights to fully address this tariff or tariff supplement in a future base rate case.

¹⁶ https://www.puc.pa.gov/documents/utility-files/344/Water_Model_Tariff2022.pdf

This provision is reasonable and in the public interest and should be approved because it will provide CAN DO's ratepayers with rate stability for two years. While this stay out period is relatively short, it is justified by the extended period (12 years) since CAN DO's last rate case. To avoid giving customers "rate shock," CAN DO intends to file rate cases on a more regular basis in the future. The stay out provision reasonably balances the interests of the public utility and ratepayers. It is therefore reasonable and in the public interest, and should be approved.

B. Wastewater

1. Approval of Tariff

As stated above, the Wastewater Division's filing proposed extensive changes to the rules and regulations in the wastewater tariff. This was the first comprehensive review of the wastewater tariff's rules and regulations in at least two decades. One of the changes included in the tariff is the implementation of an Industrial Pretreatment Program ("IPP"). The IPP will better enable the Wastewater Division to comply with environmental laws and regulations, and to better ensure the safe and high-quality operation of its collection and treatment facilities. CAN DO St. No. 1 at 11.

In addition, the revisions to the wastewater tariff ensure that the tariff reflects current best practices for a Commission-regulated wastewater utility. The revisions include several provisions based on language in the Commission's sample tariff for a wastewater utility.¹⁷ The revisions also promote consistency between the water tariff's rules and regulations and the wastewater tariff's rules and regulations. CAN DO St. No. 1 at 11-13.

The Joint Petitioners agree that the wastewater tariff should be approved. Settlement ¶ III.B.1. Considering that no party has contested any provision in the Wastewater

¹⁷ https://www.puc.pa.gov/documents/utility-files/346/Sam_Tariff_Wastewtr.pdf

Division's proposed rules and regulations, this provision in the Settlement is reasonable and in the public interest and should be approved.

For all the above reasons, CAN DO proffered that the Settlement was reasonable, in the public interest and should be recommended to the Commission for approval.

2. I&E's Position

I&E argued the following in support of the Settlement.

A. Water

1. Revenue Requirement (Joint Petition ¶¶ A.1.a-b.)

Pursuant to the terms of the Settlement, CAN DO – Water Division shall file a compliance tariff supplement, effective on one days' notice, with rates designed to produce additional annual water operating revenue of \$670,000, as opposed to the Company's requested \$999,900 increase. The Joint Petitioners have agreed upon the additional annual revenues as a "black box" settlement.

In direct testimony, I&E witness Chrisitan Yingling recommended a rate increase of \$218,585 based on adjustments made to CAN DO's operating and maintenance ("O&M") expense, cash working capital, rate base, and rate of return claims.¹⁸ In rebuttal testimony, CAN DO agreed to OSBA's proposed rate schedule which produced a rate increase of \$999,814.¹⁹ In surrebuttal testimony, I&E witness Christine Wilson recommended a rate increase of \$426,351 based on further adjustments made to CAN DO's O&M expense and rate of return claims.²⁰ The \$670,000 rate increase represents a compromise among the Joint Petitioners' proposals.

¹⁸ I&E Statement No. 1, pp. 3-4.

¹⁹ CAN DO Statement No. 2-R, pp. 12-13.

²⁰ I&E Statement No. 1-SR, pp. 2-3.

As noted above, the additional revenue in this proceeding has been agreed to in the context of a “black box” settlement. A “black box” settlement does not specifically identify the resolution of any disputed issues. Instead, an overall increase to base rates is agreed to and parties retain all rights to further challenge all issues in subsequent proceedings. A “black box” settlement benefits ratepayers as it allows for the resolution of a proceeding in a timely manner while avoiding significant additional expenses. A previous Chairman of the Commission has commented on “black box” settlements and stated that the “[d]etermination of a company’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company’s cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive and perhaps impossible. Black box settlements are an integral component of the process of delivering timely and cost-effective regulation.”²¹

This “black box” revenue increase balances the interests of ratepayers and the Company. CAN DO will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the initial proposal. As such, I&E supports the “black box” revenue increase as being in the public interest.

2. Rate Design (Joint Petition ¶¶ A.2.a-b.)

Pursuant to the terms of the Settlement, CAN DO will charge \$39.00 per month for 5/8” meters for commercial and industrial customers, with the resulting shortfall in revenues to be recovered by proportionally adjusting the Company’s proposed customer charges for the remaining meter sizes applicable to commercial and industrial customers. CAN DO will adjust its proposed usage charges for commercial and industrial customers in order to assign a system average increase to the Commercial and Industrial customers. All other customer classes shall also receive a system average increase, at the settlement revenue requirement level.

²¹ See Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm’n v. Wellsboro Elec. Co.*, Docket No. R-2010-2172662 (Order entered Jan. 13, 2011); See also Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm’n v. Citizens’ Elec. Co. of Lewisburg, Pa.*, Docket No. R-2010-2172665 (Order entered Jan. 13, 2011).

In direct testimony, OSBA witness Brian Kalcic proposed establishing a separate, lower, GMS customer charge for a 5/8” meter by setting the 5/8” meter charge at the current level of \$39.00 per month, and adjusting the Company’s remaining GMS meter charges proportionately.²² As the OSBA’s recommendation was based on the most accurate information available, I&E witness Eryan Sakaya withdrew his rate structure recommendation presented in direct testimony and accepted the proposed rate structure set forth by Mr. Kalcic.²³ CAN DO also agreed to Mr. Kalcic’s proposed rate structure.²⁴ The proposed customer charge demonstrates a compromise of the interests of the Joint Petitioners, and as such, is in the public interest.

3. Payment Arrangement Program for Commercial and Industrial Customers (Joint Petition ¶ A.3.a.)

Pursuant to the terms of the Settlement, within 30 days after entry of the Commission’s final order in these proceedings, CAN DO agrees to meet with OSBA representatives to discuss a formal payment arrangement program for commercial and industrial customers.

I&E did not submit testimony regarding the proposed payment arrangement program but shares the concerns of the Joint Petitioners and supports the terms as being in the public interest.

4. Approval of Tariff (Joint Petition ¶ A.4.a.)

The Joint Petitioners agree that the water tariff attached as Attachment B to the Joint Petition should be approved.

²² OSBA Statement No. 1, p. 7.

²³ OSBA Statement No. 1-R, pp. 4-5; I&E Statement No. 3-SR, p. 9.

²⁴ CAN DO Statement No. 2-R, pp. 2, 13.

5. Stay Out (Joint Petition ¶ A.5.a.)

Pursuant to the terms of the Settlement, CAN DO – Water Division will not file with the Commission a tariff or tariff supplement proposing a general increase in base rates earlier than two years from the effective date of the tariff supplement. However, CAN DO shall not be prevented from filing a tariff or tariff supplement, pursuant to 52 Pa. Code §§ 69.361-364, for the recovery of principal and interest payments on any new PENNVEST loan(s). OSBA and I&E reserve their rights to fully address this tariff or tariff supplement in a future base rate case.

I&E did not present testimony regarding a stay out, nor did I&E suggest the stay out proposal as an option. The stay out provision was offered as part of the overall settlement agreement in conjunction with compromises made by the Joint Petitioners on other issues. As such, I&E supports the terms as being in the public interest.

B. Wastewater

1. Approval of Tariff (Joint Petition ¶ B.1.a.)

The Joint Petitioners agree that the wastewater tariff attached as Attachment C to the Joint Petition should be approved.

For all the above reasons, I&E contended that the Settlement was reasonable, in the public interest and should be recommended to the Commission for approval.

2. OSBA's Position

OSBA argued that the Settlement is in the public interest of CAN DO's small business customers for the following reasons.

In his Direct Testimony, OSBA witness Brian Kalcic made three recommendations. First, as CAN DO did not provide a water or wastewater cost-of-service

study in this proceeding, Mr. Kalcic recommended that any overall revenue increase be allocated to the Company's customer classes on a uniform, percentage-increase basis.²⁵ In the absence of a cost-of-service study, and thus no way to determine cost responsibility among the customer classes, a uniform increase is a just and reasonable revenue allocation under these circumstances.

The Settlement adopts the OSBA's revenue allocation in this proceeding. Specifically, the Commercial and Industrial classes will receive a system average increase.²⁶

Second, Mr. Kalcic confirmed, via discovery, that CAN DO's current 5/8" meter customer charge was the same as the Company's 1½" meter customer charge.²⁷ Typically, customer charges increase with the size of the meter, and it is highly unusual for a 5/8" meter customer charge to be the same as that for a 1½" meter. Indeed, for most utilities, the 1½" meter customer charge may be multiples of the 5/8" meter customer charge.²⁸

To rectify this tariff anomaly, Mr. Kalcic recommended that the current 5/8" meter customer charge be held at its existing rate of \$39.00 per month. The revenue otherwise allocated to 5/8" meters would be reassigned to CAN DO's larger meter sizes, thereby creating some differentiation between the 5/8" meter customer charge and those charges applicable to larger meter sizes.²⁹

The Settlement adopts the OSBA's recommendation for the 5/8" meter customer charge. The revenue shortfall caused by holding the 5/8" meter charge steady at \$39.00 will be recovered from the larger Commercial and Industrial meter customer charges.³⁰

²⁵ OSBA Statement No. 1, at 4.

²⁶ Settlement, at ¶ II.A.2.b.

²⁷ OSBA Statement No. 1, at 5.

²⁸ OSBA Statement No. 1, at 5-6.

²⁹ OSBA Statement No. 1, at 7-8.

³⁰ Settlement, at ¶ II.A.2.a.

Third, Mr. Kalcic recommended that CAN DO implement a formal payment arrangement program for the Company's small business customers. After reviewing CAN DO's recent history of commercial and industrial overdue bills, Mr. Kalcic observed that a formal payment arrangement program would help avoid possible service terminations.³¹ The Settlement adopts the OSBA's recommendation on this issue.³²

For above reasons and the reasons set forth in the Settlement, OSBA maintained it supported the Settlement and requested that the ALJ and the Commission approve the Settlement in its entirety.

RECOMMENDATION

The Joint Petitioners engaged in extensive discovery and settlement negotiations. They have analyzed CAN DO's filing and determined that the stipulated revenue increase of \$670,000, as opposed to CAN DO's requested \$999,900 is just and reasonable. While I&E recommended a rate increase of \$426,351, OSBA and OCA did not introduce any evidence in the revenue requirement. Thus, the Joint Petitioners submit that the rate increase is a compromise, reasonable and in the public interest. As the presiding officer in these proceedings, I agree.

Ratepayers benefit from the agreed upon stay-out provision. CAN DO will not propose a general increase in base rates earlier than two years from the effective date of the water tariff. Based upon the Joint Petitioners' representations, the agreed-upon increase balances the interests of CAN DO's customers along with the Company's need to remain financially healthy and provides customers with levels of stability that might not otherwise have been obtainable had these proceedings been fully litigated.

³¹ OSBA Statement No. 1, at 8-10.

³² Settlement, at ¶ II.A.3.a.

Accordingly, the amount of the proposed rate increase is in the public interest because ratepayers will continue to receive safe and reliable service at reasonable rates while allowing sufficient additional revenues to meet CAN DO's operating expenses. Additionally, the public interest is served several other ways:

1. The Settlement allows the Joint Petitioners to avoid the vagaries and uncertainties associated with full litigation of the issues.
2. The Settlement allows the Joint Petitioners to rededicate their resources to other matters and to save the cost of litigation.
3. The Settlement promotes administrative ease and efficiency for the undersigned ALJ and the Commission by reducing litigation and decision-making time.

Thus, the Settlement is reasonable and in the public interest and therefore should be approved without modification by the Commission. It represents a just and fair compromise of the issues contested in these proceedings.

Therefore, I recommend that the Commission approve the Joint Petition for Approval of Settlement of Rate Proceeding without modification.

I also recommend that the Complaint of Spears Mfg. Hazle Township at Docket No. C-2023-3044287 be deemed withdrawn. As noted above Complainant Spears submitted an email withdrawing its Complaint.³³ I also recommended that the Complaints filed by OCA at Dockets Nos. C-2023-3044570 and C-2023-3044571 be dismissed. As noted above, OCA did not object to the Settlement.

³³ Section 5.94(a) of the Commission's regulations permit a party in a contested proceeding to petition for leave to withdraw a pleading. 52 Pa.Code § 5.94(a). After considering the petition, any objection thereto and the public interest, the presiding officer or the Commission determines whether to grant the withdrawal. While Spears' email did not conform to the requirements of a formal petition to withdraw a pleading, waiver of this requirement is permitted. Under Section 1.2(c), 52 Pa.Code § 1.2(c), a presiding officer at any stage of an action or proceeding may waive a requirement of a rule when necessary or appropriate if waiver does not adversely affect a substantive right of a party. Such were the circumstances in this case.

CONCLUSIONS OF LAW

1. The Pennsylvania Public Utility Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. §§ 1301, 1308.
2. Every rate made, demanded, or received by any public utility shall be just and reasonable, and in conformity with regulations or orders of the Commission. 66 Pa.C.S. § 1301.
3. A public utility seeking a rate increase has the burden of proof to establish the justness and reasonableness of each element of its request. 66 Pa.C.S. § 315(a).
4. While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged. *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n*, 570 A.2d 149 (Pa. Cmwlth. 1989).
5. While the burden of proof remains with the public utility throughout the rate proceeding, the Commission has stated that where a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00072711 (Opinion and Order entered July 17, 2008).
6. Pursuant to the just and reasonable standard, a utility may obtain “a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment.” *City of Lancaster Sewer Fund v. Pa. Pub. Util. Comm'n*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002).
7. The Commission must consider the efficiency, effectiveness, and adequacy of service of each utility when determining just and reasonable rates in exchange for

customers paying rates for service, which include the cost of utility plant in service and a rate of return. 66 Pa.C.S. § 523.

8. The Commission must authorize a sufficient, or fair, rate of return to public utilities to ensure adequate revenues to cover operating expenses, debt service expenses and common and preferred (if necessary) dividends, as well as to maintain the financial integrity of the utility and enable the public utility to attract needed debt and equity capital in the marketplace or on reasonable terms, in competition with firms of similar risk. *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944); *Bluefield Water Works Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923).

9. Pennsylvania Courts and the Commission have adopted the U.S. Supreme Court legal standards requiring the Commission to balance utility company and ratepayer interests in setting rates. *Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 130 (1985).

10. An across-the-board increase is a well-established ratemaking tool to design just, reasonable and non-discriminatory rates, especially when a cost-of-service study is not performed. *See, e.g., Pa. Pub Util. Comm'n v. Total Env't Sol., Inc. – Treasure Lake (Water and Wastewater Div.)*, Docket No. R-00072493, (Order entered Jul. 30, 2008).

11. Commission policy promotes settlements. 52 Pa. Code § 5.231.

12. A settlement lessens the time and expense that the parties must expend litigating a case and, at the same time, conserves precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. 52 Pa. Code § 69.401.

13. To accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991).

14. The Settlement filed in these proceedings is in the public interest.

15. The rates, rules and regulations in the water tariff supplement attached to the Settlement, as revised by the Joint Petitioners' May 23, 2024, Stipulation are lawful, just, and reasonable. 66 Pa.C.S. § 1301.

16. The rules and regulations in the wastewater tariff supplement attached to the Settlement, as revised by the Joint Petitioners' May 23, 2024, Stipulation are lawful, just, and reasonable. 66 Pa.C.S. § 1301.

ORDER

THEREFORE,

IT IS RECOMMENDED,

1. That the Pennsylvania Public Utility Commission approve the Joint Petition for Approval of Settlement of Rate Proceeding, filed in these proceedings, without modification.

2. That the rates, rules, and regulations proposed in the water tariff attached to the Settlement, as revised by the Joint Petitioners' May 23, 2024, Stipulation, are found to be just and reasonable.

3. That the rules and regulations proposed in the wastewater tariff attached to the Settlement, as revised by the Joint Petitioners' May 23, 2024, Stipulation, are found to be just and reasonable.

4. That CAN DO (Water Division) shall not place into effect the rules, rates and regulations contained in Tariff Water – PA PUC No. 4.

5. That CAN DO (Wastewater Division) shall not place into effect the rules and regulations contained in Tariff Wastewater – PA PUC No. 4.

6. That CAN DO (Water Division) is authorized to file water tariff supplements containing revised rates, rules and regulations as set forth in the attachment to the Settlement filed on April 1, 2024, as revised by the Joint Petitioners' May 23, 2024, Stipulation, to produce annual revenues not in excess of \$2,989,000, which is an increase over present revenues of \$670,000, to become effective on at least one day's notice after entry of the Commission's Opinion and Order approving the Settlement. The tariff will be in the form attached to the Settlement, as revised by the Joint Petitioners' May 23, 2024 Stipulation.

7. That CAN DO (Wastewater Division) is authorized to file a wastewater tariff supplement containing revised rules and regulations, as set forth in the attachment to the Settlement filed on April 1, 2024, as revised by the Joint Petitioners' May 23, 2024, Stipulation, to become effective on at least one day's notice after entry of the Commission's Opinion and Order approving the Settlement. The tariff will be in the form attached to the Settlement, as revised by the Joint Petitioners' May 23, 2024, Stipulation.

8. That the Complaints filed in these proceedings by the Office of Small Business Advocate at Docket Nos. C-2023-3044243 and C-2023-3044253 are deemed satisfied.

9. That the Complaints filed in these proceedings by the Office of Consumer Advocate at Docket Nos. C-2023-3044570 and C-2023-3044571 are dismissed.

10. That the Complaint filed in these proceedings by Daniel Sabo on behalf of Spears Mfg. (Hazle Township) at Docket No. C-2023-30444287 is deemed withdrawn.

11. That, upon Commission approval of the tariff supplement filed by CAN DO (Water Division) in compliance with the Commission's Opinion and Order in this matter, the investigation at Docket No. R-2023-3040153 shall be marked closed.

