

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held August 1, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman, Statement
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Pennsylvania Public Utility Commission	R-2023-3042804 (Water)
Office of Consumer Advocate	C-2023-3044737
Office of Small Business Advocate	C-2023-3044494
Oleg Chuchin	C-2023-3044483
John Hoopingarner	C-2023-3044502
Rose Cocklin	C-2023-3044507
Michael Sanfilippo	C-2023-3044480
Rafail Kovalenko	C-2023-3044599
Jenny Howard	C-2023-3044711
Christine Corbissero	C-2023-3044834
Scott and Vicky Furey	C-2023-3044882
Christina Boers	C-2023-3044944
George and Miriam Lingg	C-2023-3044979
Gregory Leone	C-2023-3045126
Cassandra Kramer	C-2024-3045350
Monica Wagner	C-2024-3045352
Nanette De Bartolo	C-2024-3045504
Susan J. Nikolaou	C-2024-3045546
Denise Cooper	C-2024-3045511
Ryan Ellison	C-2024-3045529
Craig Morris	C-2024-3045534
Anna Majewski	C-2024-3045535
Richard and Susan DiPiazza	C-2024-3045541
Brian Morrison	C-2024-3045560

Joseph Bellatoni	C-2024-3045068
Joseph Albanese	C-2024-3045828
Gail Bechtold and Thomas Romano	C-2024-3045846
Mario Carlino	C-2024-3045937
Nicholas Corforte	C-2024-3045975
Linda DiGregorio	C-2024-3045856
Rich Franzen	C-2024-3045982
Catherine Gilchrist	C-2024-3045943
Steven and Carol Krauss	C-2024-3045910
Patricia Lathrop	C-2024-3045944
Susan Maeri	C-2024-3045978
Kristen Martin	C-2024-3045976
Peter Mauro	C-2024-3045861
Patricia Merrill	C-2024-3046298
Grace Moro	C-2024-3045802
Suzie Napolitano	C-2024-3045876
Christ and Carol Nielsen	C-2024-3045553
Thomas and Patricia Parillo	C-2024-3045969
Penn Estates POA, Inc	C-2024-3045863
Antonia and Ramon Rivas	C-2024-3045986
Mary Rossetti	C-2023-3044561
Larisa Shin	C-2024-3045549
Tom Chladny	C-2024-3046401
Margaret Creo	C-2024-3046735
Ernesha Halloway	C-2024-3045359
David Lambie	C-2024-3045801
Natalie Ortiz	C-2023-3045148
Anna Paryzki	C-2024-3045533
Grazyna Parzyka	C-2024-3045542
Petricia Perville-Davy	C-2024-3045389
Raju Shah	C-2024-3047313
Angela Tam	C-2024-3045333

v.

Community Utilities of Pennsylvania, Inc.

Pennsylvania Public Utility Commission	R-2023-3042805
	(Wastewater)
Office of Consumer Advocate	C-2023-3044738
Office of Small Business Advocate	C-2023-3044528
Oleg Chuchin	C-2023-3044508

John Hoopingarner	C-2023-3044503
Rose Cocklin	C-2023-3044508
Michael Sanfilippo	C-2023-3044481
Rafail Kovalenko	C-2023-3044649
Jenny Howard	C-2023-3044712
Christine Corbissero	C-2023-3044835
Scott and Vicky Furey	C-2023-3044887
Christina Boers	C-2023-3044945
George and Miriam Lingg	C-2023-3044993
Gregory Leone	C-2023-3045127
Cassandra Kramer	C-2024-3045356
Monica Wagner	C-2024-3045357
Nanette De Bartolo	C-2024-3045510
Susan J. Nikolaou	C-2024-3045557
Denise Cooper	C-2024-3045515
Ryan Ellison	C-2024-3045531
Craig Morris	C-2024-3045782
Anna Majewski	C-2024-3045547
Richard and Susan DiPiazza	C-2024-3045556
Brian Morrison	C-2024-3045564
Joseph Bellatoni	C-2024-3045149
Joseph Albanese	C-2024-3045837
Gail Bechtold and Thomas Romano	C-2024-3045847
Mario Carlino	C-2024-3045973
Nicholas Corforte	C-2024-3045974
Linda DiGregorio	C-2024-3045857
Rich Franzen	C-2024-3046077
Catherine Gilchrist	C-2024-3045972
Steven and Carol Krauss	C-2024-3045911
Patricia Lathrop	C-2024-3045970
Susan Maeri	C-2024-3045979
Kristen Martin	C-2024-3045977
Peter Mauro	C-2024-3045862
Patricia Merrill	C-2024-3046299
Grace Moro	C-2024-3045803
Suzie Napolitano	C-2024-3045877
Christ and Carol Nielsen	C-2024-3045563
Thomas and Patricia Parillo	C-2024-3045557
Penn Estates POA, Inc	C-2024-3045830
Antonia and Ramon Rivas	C-2024-3045981
Mary Rossetti	C-2023-3044538
Larisa Shin	C-2024-3045561
Tigron Petrosian	C-2024-3045833

Laura Brennan	C-2024-3044709
Brian Fenimore	C-2023-3044383
Robert Zwahlen	C-2024-3045808
Ernesha Bolden	C-2024-3045716
David Fardig	C-2024-3045355
Lynn Buckingham	C-2024-3045354
Daniel McKoy	C-2024-3045480
Rene Bressant	C-2024-3045559
Christopher Williams	C-2024-3045661

v.

Community Utilities of Pennsylvania, Inc.

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Recommended Decision (R.D.) of Administrative Law Judges (ALJs) Steven K. Haas and Alphonso Arnold III, issued on May 28, 2024, relative to the above-captioned general rate increase proceeding, and the Exceptions filed with respect thereto. The Recommended Decision of ALJs Haas and Arnold recommended that the Commission approve the Joint Petition for Full Settlement of Rate Proceedings (Joint Petition or Settlement), filed by Community Utilities of Pennsylvania, Inc. (CUPA or the Company), the Commission’s Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), and the Office of Small Business Advocate (OSBA) (collectively, the Joint Petitioners), on April 26, 2024.

Richard and Susan DiPiazza (the DiPiazzas) filed an Objection to the Settlement¹ on May 30, 2024.² On June 3, 2024, CUPA, I&E, and the OCA each filed a Letter stating that they would not be filing Exceptions to the Recommended Decision. On June 4, 2024, Joseph Albanese (Mr. Albanese) filed Exceptions to the Recommended Decision, which included a Certificate of Service upon the Parties of record in this proceeding.³ On June 7, 2024, CUPA filed Replies to the Exceptions of Mr. Albanese. Also, on June 7, 2024, I&E and the OCA each filed a Letter stating that they would not be filing Replies to Exceptions. No replies to the DiPiazzas' Exceptions were filed.

As noted in our determinations herein, we shall adopt the ALJs' Recommended Decision, consistent with this Opinion and Order, and, thereby, approve the Settlement without modification.

¹ Under 52 Pa. Code § 1.2, the Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties. Here, given that the Parties were provided notice of the opportunity to respond to the Recommended Decision, the substantive rights of the other Parties will not be affected by the treatment of the DiPiazza's filing on May 30, 2024, as Exceptions to the Recommended Decision. Therefore, pursuant to 52 Pa. Code § 1.2, and in order to secure the just, speedy, and inexpensive determination in this proceeding, we shall consider the DiPiazza's filing on May 30, 2024, as Exceptions to the Recommended Decision.

² By Secretarial Letter issued June 24, 2024 (*June 2024 Secretarial Letter*), the Commission's Secretary: (1) notified the Parties that there was no Certificate of Service or other indication that the DiPiazza's filing was served on the Parties; and (2) enclosed the filing, in order to constitute service under 52 Pa. Code § 1.54. *See, June 2024 Secretarial Letter*. Therefore, pursuant to 52 Pa. Code § 5.535(a), the Parties were provided ten days to file Reply Exceptions. Given that July 4, 2024, was a holiday, Reply Exceptions were due July 5, 2024.

³ Initially, Mr. Albanese filed Exceptions to the Recommend Decision on May 31, 2024, without a Certificate of Service.

I. History of the Proceeding⁴

On November 9, 2023, CUPA filed Supplement No. 13 to Tariff Water – Pa. P.U.C. No. 1 (Supplement No. 13), to become effective January 9, 2024. Supplement No. 13 would increase CUPA’s total annual operating income revenue for water service by approximately \$1,470,360, or 62.26%, over the Fully Projected Future Test Year (FPFTY) levels at present rates.⁵ The Commission docketed this filing at Docket No. R-2023-3042804. R.D. at 2.

Also, on November 9, 2023, CUPA filed Supplement No. 11 to Tariff Wastewater – Pa. P.U.C. No. 1 (Supplement No. 11), to become effective January 9, 2024. Supplement No. 11 would increase CUPA’s total annual operating revenue for wastewater service by approximately \$1,738,944, or 50.83%, over FPFTY levels at present rates.⁶ The Commission docketed this filing at Docket No. R-2023-3042805. R.D. at 2-3.

On November 13, 2023, I&E filed a Notice of Appearance in both proceedings. On November 29, 2023, the OSBA filed Formal Complaints, Public Statements, Verifications, and Notices of Appearances in both proceedings. On December 8, 2023, the OCA filed Formal Complaints, Public Statements, Verifications, and Notices of Appearances in both proceedings. R.D. at 3.

⁴ For a complete history of the proceeding, please refer to pages 2-6 of the Recommended Decision.

⁵ Although Supplement No. 13 states a proposed water revenue increase of \$1,449,638, CUPA’s testimony and schedules state \$1,470,360. R.D. at 2 (citing CUPA St. 1 at 9; CUPA St. 2 at 3; Filing Schedule B at 1-2).

⁶ Although Supplement No. 11 states a proposed wastewater revenue increase of \$1,720,070, CUPA’s testimony and schedules state \$1,738,944. R.D. at 3 (citing CUPA St. 1 at 9; CUPA St. 2 at 3; Filing Schedule B at 1, 3).

Formal Complaints were filed by several customers against both Tariff Supplement No. 13 and Supplement No. 11. R.D. at 3-4. Among others, on December 20, 2023, the DiPiazas, customers of CUPA, filed a Formal Complaint against the requested increase. The Complaint was docketed at both R-2023-3042804 and R-2023-3042805. Additionally, on January 5, 2024, Mr. Albanese, a customer of CUPA, filed a Formal Complaint against the requested increase (Albanese Rate Complaint). That Complaint was docketed at both R-2023-3042804 and R-2023-3042805.

On December 21, 2023, pursuant to 66 Pa.C.S. § 1308(d), the Commission suspended both rate filings by operation of law until August 9, 2024, unless permitted by Commission Order to become effective at an earlier date (Suspension Order). The matters were assigned to ALJs Haas and Arnold. R.D. at 4.

On December 27, 2023, the Commission issued a Call-In Telephone Prehearing Conference Notice, which scheduled an initial telephonic prehearing conference for both proceedings for January 11, 2024. Subsequently, on December 29, 2023, the ALJs issued a Prehearing Conference Order, which set forth rules that would govern the prehearing conference and directed the Parties to file prehearing conference memoranda by noon on January 9, 2024. R.D. at 4.

On December 28, 2023, in compliance with the Commission's Suspension Order, CUPA filed Supplement No. 15 to Tariff Water – Pa. P.U.C. No. 1 (at Docket No. R-2023-3042804), and Supplement No. 13 to Tariff Wastewater – Pa. P.U.C. No. 1 (at Docket No. R-2023-3042805).

On January 11, 2024, a telephonic prehearing conference was held as scheduled, with the following Parties present: CUPA; I&E; the OCA; and the OSBA. No consumer Complainants appeared at the prehearing conference. On January 25, 2024,

the ALJs issued a Scheduling Order which: (1) consolidated the two proceedings; (2) granted CUPA's voluntary offer to extend the suspension period from August 9, 2024, to August 22, 2024, contingent upon the Company being permitted to recover approved rates from the original suspension deadline date through the effective date of Commission-approved rates; (3) modified the Commission's discovery regulations; (4) established a litigation schedule; and (5) scheduled public input hearings. R.D. at 4.

On January 31, 2024, the Company filed a Motion for Protective Order seeking to protect against non-authorized disclosure of proprietary information that is filed in the consolidated proceedings. On February 2, 2024, the ALJs issued an Order Granting Motion for Protective Order. R.D. at 4-5.

On February 2, 2024, CUPA filed Supplement No. 16 to Tariff Water – Pa. P.U.C. No. 1 and Supplement No. 14 to Tariff Wastewater – Pa. P.U.C. No. 1, suspending the effective date of rates at issue in these proceedings until August 22, 2024. R.D. at 5.

Public input hearings were held on: (1) January 30, 2024; (2) January 31, 2024; and (3) February 1, 2024. In total, forty-nine witnesses provided testimony at the public input hearings. R.D. at 5.

On February 6, 2024, I&E, the OCA, and the OSBA each pre-served Direct Testimony. On March 5, 2024, CUPA, I&E, the OCA, and the OSBA each pre-served Rebuttal Testimony. On March 19, 2024, CUPA, I&E, the OCA, and the OSBA each pre-served Surrebuttal Testimony. On March 25, 2024, CUPA pre-served its written Rejoinder Testimony. R.D. at 5.

On March 26, 2024, CUPA's counsel e-mailed the ALJs stating that CUPA, I&E, the OCA, and the OSBA had all agreed to waive cross examination of all witnesses and requested that the ALJs excuse all witnesses, cancel the hearings, and allow for the submission of all pre-served testimony and exhibits into the record by way of a Joint Stipulation for Admission of Evidence. On March 26, 2024, the ALJs granted the Parties' request cancelling the evidentiary hearings and directed the Parties to file a Joint Stipulation for Admission of Evidence. Consequently, on April 1, 2024, CUPA, I&E, the OCA, and the OSBA filed their Joint Stipulation for Admission of Pre-Served Testimony and Exhibits into the Evidentiary Record, seeking to admit into the evidentiary record the previously served written testimony and exhibits prepared by CUPA, I&E, the OCA, and the OSBA. On April 2, 2024, the ALJs issued an Order Granting Joint Stipulation and Admitting Evidence. Subsequently, on April 18, 2024, the ALJs issued a Revised Order Granting Joint Stipulation and Admitting Evidence. R.D. at 5-6.

As noted, *supra*, on April 26, 2024, the Joint Petitioners filed the Settlement, which proposed to resolve all issues raised in the proceeding, with accompanying statements in support from each Party to the Settlement. The Settlement provides for, *inter alia*, an increase in the Company's annual revenue for water service and wastewater service, in the amounts of \$1,227,538 and \$1,447,621, respectively. R.D. at 2, 6.

Attached to the Joint Petition are Appendices A through J, which contain the following: Appendix A – Procedural History, Proposed Findings of Fact, Proposed Conclusions of Law, Proposed Ordering Paragraphs; Appendix B – Water Tariff Supplement; Appendix C – Wastewater Tariff Supplement; Appendix D – Water Proof of Revenue; Appendix E – Wastewater Proof of Revenue; Appendix F – Customer Bill Impacts; Appendix G – Statement of CUPA in Support of the Joint Petition (CUPA Statement in Support); Appendix H – Statement of the OCA in Support of the Joint Petition (OCA Statement in Support); Appendix I – I&E Statement in Support of

Joint Petition (I&E Statement in Support); and Appendix J – Statement in Support of the Settlement of the OSBA (OSBA Statement in Support).⁷ *See*, Settlement Appendices A-J.

The Joint Petition provided that the Settlement will be provided to all Formal Complainants. Further, the Joint Petition set a deadline of May 15, 2024, for the submission of comments either in support of, or opposition to, the Settlement. On May 8, 2024, Christ Nielsen filed an Objection to the Joint Petition. No other Complainants filed an objection or comment to the Settlement. R.D. at 6.

On May 16, 2024, upon expiration of the deadline for the filing of comments to the Settlement, the record in this proceeding was closed. R.D. at 6.

As previously noted, the ALJs' Recommended Decision was issued on May 28, 2024.⁸ In their Recommended Decision, the ALJs found, *inter alia*, that the Settlement submitted by the Joint Petitioners is: (1) just and reasonable; (2) supported by substantial evidence; (3) in the public interest; and (4) consistent with the requirements of 66 Pa.C.S. § 1308. Accordingly, the ALJs recommended that the Commission approve the proposed rate settlement without modification, and that the Company file tariff supplements reflecting the rates set forth in its proposed compliance tariffs attached to the Joint Petition as Appendices B and C (for Water and Wastewater, respectively), to become effective for service rendered on and after August 9, 2024. R.D. at 2, 24, 64, 66.

⁷ We note that according to the Commission's case management system, CUPA filed corrected versions of Appendices B and C on May 7, 2024.

⁸ On May 29, 2024, an Errata Notice was issued to advise all the Parties of record that the first page of the Recommended Decision contained an incorrect docket number for a Wastewater complaint. We note that the correct docket number is reflected herein.

As noted, *supra*, the DiPiazzas and Mr. Albanese filed Exceptions to the Recommended Decision on May 30, 2024, and on June 4, 2024, respectively. On June 3, 2024, CUPA, I&E, and the OCA each filed a Letter stating that they would not be filing Exceptions to the Recommended Decision. No Replies to the Exceptions of the DiPiazzas were filed. CUPA filed Replies to the Exceptions of Mr. Albanese on June 7, 2024. Also, on June 7, 2024, I&E and the OCA each filed a Letter stating that they would not be filing Replies to Exceptions.

II. Description of CUPA

CUPA is a certificated public utility that provides water service to approximately 3,257 customers, and wastewater service to approximately 3,832 customers, in the following three service territories in Pennsylvania: Penn Estates Utilities, Inc. (Penn Estates); Utilities, Inc. – Westgate (Westgate); and Pennsylvania Utility Company (Tamiment). R.D. at 10 (citing CUPA St. 1 at 4, St. 2 at 12-13).

III. Discussion

A. Terms of the Settlement

The Joint Petitioners agreed upon the following terms of settlement, which are set forth in Section V.A through V.K of the proposed Settlement, and are reprinted verbatim below:

1. The Company, I&E, the OCA, and OSBA engaged in a series of long, detailed, and productive communications to determine if, consistent with the Commission’s policy to “encourage settlements,” stated at 52 Pa. Code § 5.231(a), a settlement was possible. After extensive discovery and testimonial presentation by the Joint Petitioners, the Joint Petitioners engaged in an even more

extensive series of settlement negotiations. The Settlement is the product of those comprehensive negotiations, representing give-and-take by all Joint Petitioners, which resulted in a settlement that is in the public interest. The Settlement balances the need for significant investment to modernize facilities in CUPA's territories and the need for cost-based rates and measures to further enhance service and future performance with the principle of gradualism in rate changes and recognition of potential financial hardships for some customers. Moreover, the Settlement comprehensively addresses the quality of service issues raised in this proceeding by requiring the Company to, among other things, submit information on lost and unaccounted for water [(UFW)], update the Joint Petitioners on the implementation of virtual District Metering Areas in its Penn Estates service territory, provide certain information on isolation valve exercising as part of its next base rate case, and develop a hydraulic model to evaluate fire suppression flows in the Company's Tamiment system

2. The Settlement is a typical "black box" settlement;⁹ that is, without admission on any particular issue. The terms agreed to are enforceable upon approval by the Commission. The Joint Petitioners agree that this Settlement is a reasonable resolution of competing positions and interests in a way that meets and promotes the public interest. It also avoids additional significant time and expense of all involved and avoids further expense including expensive briefing,

⁹ *Pa. PUC et al v. Peoples TWP LLC*, 2013 WL 6835105, at *16 (Order entered Dec. 19, 2013) ("We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. See, *Pa. PUC v. Wellsboro Electric Co.*, Docket No. R-2010-2172662 (Final Order entered January 13, 2011); *Pa. PUC v. Citizens' Electric Co. of Lewisburg, PA*, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. For these reasons, we support the use of a "black box" settlement in this proceeding and, accordingly, deny this Exception.").

exceptions, replies, and potential appeals, which costs, under prevailing Pennsylvania law, would have ultimately been borne by the ratepayers.

3. The Joint Petitioners support approving CUPA's base rate filing at the above-captioned dockets as modified by the terms and conditions that follow:

A. Revenue Requirement Increase – Water

4. Upon Commission approval of this Settlement, the Company will be permitted to change rates for water service as set forth in the proposed Water Tariff Supplement attached hereto as **Appendix B** ("Water Settlement Rates"), to become effective upon one day's notice. Instead of the \$1,470,360 increase requested in the filing, the Water Supplement rates are designed to produce an increase of annual water revenue of \$1,227,538 as shown in greater detail on the Proof of Revenues attached hereto as **Appendix D**.

B. Revenue Requirement Increase – Wastewater

5. Upon Commission approval of this Settlement, the Company will be permitted to charge rates for wastewater service as set forth in the proposed Wastewater Tariff Supplement attached hereto as **Appendix C** ("Wastewater Settlement Rates"), to become effective upon one day's notice. Instead of the \$1,738,944 increase requested in the filing, the Wastewater Settlement Rates are designed to produce an increase of annual wastewater revenue of \$1,447,621 as shown in greater detail on the Proof of Revenues attached hereto as **Appendix E**.

C. Stay Out

6. The Company agrees that it will not file for a general rate increase pursuant to 66 Pa. C.S. § 1308(d) to water or wastewater base rates earlier than February 9, 2026. This paragraph does not apply to extraordinary or emergency rate relief pursuant to 66 Pa. C.S. § 1308(e) (or upon a petition for emergency rate increase), tariff changes required by Commission order or industry-wide changes in regulatory policy which affect CUPA's rates.

D. Effective Date

7. Upon the entry of a Commission order approving this Joint Petition, the Company will be permitted to file a tariff for water service, in the form attached hereto as **Appendix B**, and a tariff for wastewater service, in the form attached hereto as **Appendix C**, reflecting the agreed-upon additional operating revenue. The Joint Petitioners agree to the implementation of the Water Settlement Rates and Wastewater Settlement Rates on August 9, 2024, when the original statutory suspension period was to expire, if the Commission enters an Order approving the Joint Petition prior to or on that date.¹⁰

8. If the Commission approval of this Settlement occurs after August 9, 2024, the Joint Petitioners agree that CUPA shall be entitled to recoup the revenue increase not billed from the effective date of August 9, 2024, through the date of any PUC approval of new rates in the manner set forth in the Commission's final Order in this proceeding. The revenue increases not billed from the effective date of August 9, 2024, through the date of PUC approval of new rates will be recovered over a six-month period that shall be applied proportionately to all customer classes via a surcharge on each monthly bill during the six-month recovery period. The Company will be permitted to file revised water and wastewater tariff pages to implement the surcharge, as set forth in Appendices B and C, respectively.

E. COVID-19 Regulatory Asset

9. CUPA shall recover the COVID-19 Regulatory Asset balance of \$114,185 amortized over 5 years.

10. CUPA shall remove the deferred charges related to the COVID-19 pandemic from rate base.

11. The above revenue requirement includes recovery of the COVID-19 Regulatory Asset as modified by the Paragraphs 9 and 10, but to the extent CUPA files another rate case prior to the end of 5-year amortization period, CUPA may recover any remaining balance in future rates.

¹⁰ By Scheduling order entered January 25, 2024, the procedural suspension date was extended from August 9, 2024, to August 22, 2024.

12. CUPA agrees to no longer continue recording a regulatory asset for ongoing COVID-19 related incremental bad debt (other than reductions to bad debt in the regulatory asset associated with late recovery of such related bad debt) and other COVID-19 related expenses after the effective date of new rates for the instant proceeding.

F. Low-Income Program

13. The Company will expand the eligibility of its Low-Income Program from income up to 100% to income up to 200% of the [Federal Poverty Level (FPL)].

14. Regarding changes to the Company's website:

a. The Company will make the low-income section of its website a permanent news item that is visible as soon as the customer enters the website.

b. The separate, low-income page will include a link to the application form, as well as all information about the sign-up process and eligibility qualification requirements.

c. The Company will change the existing "URL" link to the application page to say "Application" or "Click here to apply".

d. The Company will use its existing customer notification infrastructure to drive customers to the website to explore the Low-Income Program and their possible eligibility. Specifically, the Company will use its Voice Reach system – which sends information directly to customers via email, phone, and text messages – to provide quarterly updates to customers about the existence of the program. This outreach will be modified to both English and a Spanish language.

e. The Company will provide print copies of their low-income handouts to customers in English or Spanish. These mailers will be provided quarterly through bill inserts.

15. The Company will continue to provide quarterly report updates detailing participation, usage, and revenue shortfalls/surpluses.

16. The Company will track all costs associated with the administration of its Low-Income Program, if those costs are dedicated to administering the Program. Such costs include the Company's payments to Dollar Energy Fund [(DEF)] for income verification and costs associated with outreach activities. The Company will report these costs on a quarterly basis in its Low-Income reporting. In its next base rate proceeding, the Company shall identify those costs it seeks to recover as part of its ongoing administration of the Low-Income Program.

17. Until the Commission issues an order in CUPA's next base rate case, the Company will hold annual customer meetings in each of its service territories where topics including the Low-Income Program will be discussed.

G. Rate Design and Structure

18. The parties agree to the rate design reflected in Appendix D and Appendix E, which reflects the following rate design principles:

a. The Company will apply a 45% discount to both the volumetric and customer charge for all participants in the Low-Income Program, regardless of their income relative to the FPL.

b. The [C]ompany will implement a 6.3% water and a 1% wastewater differential between the commercial and residential volume charges.

c. For the purposes of establishing the revenue requirement in this case, CUPA shall utilize a consumption decline of 1.16% from the Historical Test Year ("HTY") consumption levels to the Future Test Year ("FTY") consumption levels and an additional decline of 1.16% from the FTY to the [FPFTY] consumption levels.

19. In its next base rate filing, CUPA will present a tiered discount income-based plan with tiers at 50% and 75%

of the [FPL]. This tiered income-based plan will only be applied to and recovered from residential customers.

H. Arrearage Management Program (AMP)

20. Customers approved for CUPA's low-income rate and with a past-due balance greater than \$400 can participate in CUPA's AMP.

21. The AMP will be comprised of the total past due balance for all services – water and/or wastewater. The past due balance threshold of \$400 for participation in the AMP will be based upon this combined balance.

22. AMP customers will be enrolled in a multi-month Deferred Payment Arrangement ("DPA"). A DPA allows a customer to take their past-due balance and split their past-due balance over equal monthly installments.

23. The default AMP period for low-income customers will be 12 months. While these terms may be default periods, CUPA will allow good faith flexibility by including consideration of ability of the customer to pay, length of time over which the past due balance accumulated, payment history, and size of unpaid balance.

24. AMP customers who make timely payments and stay current with their monthly water/wastewater bill, including the DPA portion of their bill, for half of the months of the AMP term will have the remaining monthly DPA payments forgiven. In the next base rate case, the [C]ompany will present an analysis and costs to implement changes to its billing system that would allow customers on an active AMP to select an alternate billing due date. Should such AMP feature be approved by the Commission, and the costs to implement the changes are deemed reasonable, such costs would be recoverable as a component of the Company's cost of service.

25. If the customer defaults on the DPA, normal collections processes apply. The customer may request to establish a new DPA (not an AMP DPA) for any then-current past due balance. The customer may be eligible for an AMP

DPA to be implemented 12 months after default of a previous AMP DPA.

26. If the customer defaults on the DPA, then all payments made by the customer to satisfy the customer's obligations under the DPA will contribute towards satisfying the customer's overall arrearage (*e.g.*, if a customer makes monthly payments totaling \$250 of their \$500 requirement under the AMP with a \$1,000 overall arrearage balance, then the customer's arrearage balance upon default would be \$750.)

27. The AMP will be indifferent as to how or who makes payments on the balance.

28. Customers who apply for or are approved for the Low-Income Program will be informed of the AMP and offered an opportunity to participate in the AMP in conjunction with the Low-Income Program outreach.

29. If a CUPA customer contacts CUPA or [DEF] regarding an issue with paying their bill or signing up for either the AMP or the low-income program, the customer shall be informed of both programs, including eligibility requirements.

I. Integration Customer Protection Deferral Mechanism

30. CUPA shall set up a deferral account, "Integration Customer Protection Deferral Mechanism," which will capture accrued costs and benefits of integration that occur for five years after the closing date. All parties reserve their rights to challenge recovery of any deferred amounts in future rate proceedings.

J. Water Quality & Service Issues

31. Regarding [UFW] mitigation and reporting:

a. For all systems, the Company will perform annually system wide leak detection and any associated repairs unless the individual system has an average UFW that is below 20% for the previous 6 months.

b. For Penn Estates, the [C]ompany is currently working with GHD, an engineering firm, to design

and implement virtual district metering areas (“vDMA”) at Penn Estates utilizing the existing hydraulic model. The vDMAs serve to split the system into smaller zones, which will allow for ongoing monitoring and quicker response times to locate and repair leaks. Before the next rate case, CUPA will provide OCA, I&E, and OSBA with an update on the implementation of the vDMA project.

c. CUPA will submit PUC Form 500 method using gallons/year units instead of gallons/day.

d. CUPA will submit an individual Form 500 for each of its systems.

e. In future rate cases, CUPA will continue to provide a breakdown of lost and [UFW] by system detailing all identified causes as per the previous base rate case settlement.

f. CUPA shall provide quarterly updates regarding their UFW by system to the OCA and the Commission until CUPA files its next base rate case.

32. Before the next rate case, CUPA will provide an update to [the] OCA, I&E, and [the] OSBA on the implementation of the recommendations from the engineering study and hydraulic analysis to address low and high pressure in Penn Estates.

33. CUPA will submit with its next rate case documentation that identifies the isolation valves that need to be located, uncovered, repaired and/or replaced in the following year.

34. The Company will have GHD develop a hydraulic model utilizing existing data for its Tamiment system. The hydraulic model will then be used to evaluate the fire suppression flows available throughout the Tamiment system before the next base rate case. Monthly unmetered public fire protection rates will not be decreased.

35. The Company will present a no-fee payment option for online payments in the next base rate case. Under

this methodology, customers would not be directly charged an additional fee at the time of payment. Instead, these expenses will be recovered by CUPA directly under the O&M expenses in the cost of service.

K. Capital Reporting Requirements

36. CUPA will file and serve upon I&E, the OCA, and [the] OSBA an updated CUPA Schedule A-1, Columns A-G, lines 1-50 (water) and 51-119 (wastewater) no later than November 1, 2024, that will include the actual capital expenditures, plant additions, and retirements by month for the twelve months ending July 31, 2024.

37. CUPA will provide an additional update for the 12 months ending July 31, 2025, no later than November 1, 2025.

L. Standard Terms

38. The Commission's approval of the Settlement Terms shall not be construed as approval of any Joint Petitioner's position on any issue but rather as an agreed-to compromise of the Joint Petitioners' competing positions. It is understood and agreed among the Joint Petitioners that the Settlement Terms are the result of compromise and do not necessarily represent the position(s) that would be advanced by any Joint Petitioner in this or any other proceeding, if it were fully litigated. Accordingly, the Settlement Terms may not be cited as precedent in any future proceeding, except to the extent required to implement or enforce any Settlement Term herein.

39. This Settlement is presented without prejudice to the position any of the Joint Petitioners may advance in future proceedings, except to the extent necessary to effectuate or enforce any term specifically agreed to by the Joint Petitioners in this Settlement.

40. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. In reaching this Settlement, the Joint Petitioners thoroughly considered all issues and give and take of positions. As a result of that consideration, the Joint Petitioners believe that the settlement agreement

meaningfully addresses all such issues raised and therefore should be approved without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

41. If the ALJ, in the Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions. However, to the extent any terms and conditions of the Settlement are modified, or additional matters are proposed by the ALJ in the Recommended Decision, the Joint Petitioners do not waive their rights to file Exceptions in support of the Settlement. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed provided such Replies support the Settlement.

42. The Joint Petitioners recognize that this Joint Petition is a settlement of, and binding upon, only the parties signing this document. The OCA represents it will, on the date of the signing of this [S]ettlement petition, send a letter providing instructions concerning the Complainants' opportunity to address the proposed Settlement. The OCA also represents that the letter will explain that the Complainant has until May 15, 2024, to join, disagree but not actively oppose, or object to the Settlement and provides contact information for the Presiding Officers and the OCA.

43. The Joint Petitioners agree that this document may be signed or executed in separate counterparts or signature pages that shall be binding upon the Joint

Petitioners and such counterparts shall be considered as one document.

44. The Joint Petitioners agree and request that if the Settlement is approved, the OCA and [the] OSBA's respective Formal Complaints in this matter should be marked satisfied and closed due to the Settlement.

Settlement at 2-12 (emphasis in original).

B. Applicable Law

The purpose of this investigation is to establish rates for CUPA's customers that are "just and reasonable," pursuant to Section 1301 of the Code, 66 Pa.C.S. § 1301. A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Pennsylvania Gas and Water Company v. Pa. PUC*, 341 A.2d 239 (Pa. Cmwlth. 1975). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679 (1923) (*Bluefield*) and *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). In *Bluefield*, the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes

affecting opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-3.

Commission policy promotes settlements. 52 Pa. Code §§ 5.231, 69.401. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing 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. Rate cases are expensive to litigate and the cost of such litigation at a reasonable level is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission's decision, yields significant savings for the company's customers. This is one reason why settlements are encouraged by long-standing Commission policy.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. PUC, et al. v. The York Water Company*, Docket No. R-00049165 (Opinion and Order entered October 4, 2004); *Pa. PUC v. C. S. Water and Sewer Associates*, 74 Pa. P.U.C. 767 (1991).

Section 315(a) of the Code reads as follows:

§ 315. Burden of proof.

(a) Reasonableness of rates.-- In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon

complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

66 Pa.C.S. § 315(a). Consequently, in this proceeding, CUPA has the burden to prove that the rate increase it has proposed through the Settlement is just and reasonable. The Joint Petitioners have reached an accord on the issues and claims that arose in this proceeding and submitted their Settlement for Commission review. In reviewing the Settlement, the question which must be answered is whether it is in the public interest. The Joint Petitioners have the burden to prove that the Settlement is in the public interest.

C. Statements of the Parties in Support of the Settlement

1. Positions of the Parties

CUPA provided that the proposed Settlement is in the public interest and establishes rates which: (1) are just and reasonable; (2) incorporate the principles of rate gradualism through a voluntary rate case stay-out provision; and (3) economically benefit the Company's customers by setting lower rates than originally requested. CUPA averred that the Settlement will benefit customers because it will: (1) provide the Company with additional revenues that will continue to enhance its ability to modernize its water and wastewater systems and provide high quality customer service; and (2) save on rate case litigation costs – which are borne by ratepayers under Pennsylvania law – over the next two years. CUPA Statement in Support at 1-2. As support that the Settlement will mitigate the effects of the rate increase on low-income customers, CUPA noted, *inter alia*, that the Settlement will establish an AMP which will provide a direction for qualifying customers to receive arrearage forgiveness. *Id.* at 2-3. CUPA also noted that the Settlement mitigates the impacts to customers by, *inter alia*, assigning a larger

amount of the increase to volumetric charges rather than fixed customer charges, thereby ensuring that customers have more control over their monthly bills. *Id.* at 3. CUPA also highlighted that the Settlement provides for further resolution of the service issues raised at the public input hearings, which reflects the Company's agreement to several requests made by I&E and the OCA in their testimony to address those issues. *Id.* at 3-4.

I&E submitted that the proposed Settlement: (1) balances the interests of CUPA, its customers, and the Joint Petitioners in a fair and equitable manner; (2) proffers a resolution for the Commission's adoption that best serves the public interest; and (3) demonstrates the compromises of the Joint Petitioners. I&E Statement in Support at 6-7. I&E noted that the overall revenue levels are within the levels advanced on the evidentiary record and reflect the compromise of all revenue-related issues raised by the Parties. Therefore, I&E submitted that it fully supports the negotiated level of overall base rate revenue increase as a full and fair compromise that provides the Company, the Joint Petitioners, affected ratepayers, and the Commission with resolution of the overall revenue increase, all of which is in the public interest. *Id.* at 8. I&E also highlighted *inter alia*, that: (1) it does not oppose the stay-out provision, or the agreed-upon terms regarding CUPA's low-income program and its AMP; and (2) it fully supports the Settlement terms pertaining to the revenue allocation and rate design, the Integration Customer Protection Deferral Mechanism, and the water quality and service issues. *Id.* at 9, 11, 13-16. I&E also noted that this Settlement not only eliminates the need for evidentiary hearings and post-hearing litigation, but also provides regulatory certainty with respect to the disposition of issues and resolution of this case, which all Parties agree benefits their discrete interests. Therefore, I&E represented that it supports the Settlement as being in the public interest and requested that the ALJs and the Commission approve it without modification. *Id.* at 18-19.

The OCA submitted that the proposed Settlement: (1) achieves a reasonable resolution of the several issues presented in this proceeding; (2) is in the

public interest and the interest of the Company's customers; and (3) should be approved without modification. OCA Statement in Support at 3-4. The OCA highlighted, *inter alia*, that the Settlement provides or will provide: (1) a total revenue increase less than 3% higher than the OCA's litigated position, which would be within the range of likely outcomes in the event of full litigation of the case; (2) a stay out provision that ensures stability in the newly-established rates, such that the Company will not file a rate request until at least February 9, 2026; (3) a rate design that is in the public interest because it balances the Company's interest in maximizing fixed rate recovery with the Commission's policies, which favor rate designs that incentivize conservation and move gradually toward cost of service; (4) more affordable bills to the Company's low-income customers; (5) an improvement in the Company's low-income programs and progresses CUPA towards offering a more comprehensive and overall robust low-income program; and (6) provisions that address water quality and service issues. *Id.* at 5, 10-11, 13, 18-19, 26. Overall, the OCA submitted that the terms and conditions of the Settlement represent a fair and reasonable resolution of the issues raised by the OCA in this proceeding. Therefore, the OCA submitted that the Settlement should be approved by the ALJs and the Commission without modification. *Id.* at 27.

The OSBA, as with I&E and the OCA, noted the benefits of the proposed Settlement. The OSBA highlighted, *inter alia*, that the Settlement provides or will provide: (1) a reduction in the overall revenue increase; (2) a stay out provision, which will provide assurance to small business customers that CUPA will not seek to increase rates for a significant period of time; and (3) a resolution without the need for costly litigation procedures, which are borne by the Joint Petitioners and the Company's customers. Accordingly, the OSBA submitted its support for the Settlement and requested that the ALJs and the Commission approve the Settlement in its entirety. OSBA Statement in Support at 2-3, 5.

2. ALJs' Recommendation

In their Recommended Decision, ALJs Haas and Arnold made ten Findings of Fact (FOF) and reached twelve Conclusions of Law (COL). I.D. at 10-16, 65-66. The FOF and COL are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

The ALJs concluded that the terms of the Joint Petition are just, reasonable, and necessary for the Company to provide safe and adequate water and wastewater service to its customers and, therefore, are in the public interest.¹¹ R.D. at 2, 24. The ALJs considered the terms and conditions of the Settlement and found that it produces just and reasonable rates and addresses several other issues raised by the Parties during the course of this proceeding. R.D. at 64. Of particular note, the ALJs reasoned that because the agreed-upon revenue increase represents a reduction from CUPA's initial proposal, Company customers will benefit from a reduction in their economic burden and CUPA being afforded with revenue sufficient to cover its expenses and continue investing in its facilities necessary to provide safe, effective, and reliable water and wastewater service. R.D. at 27. The ALJs further reasoned that the active Parties: (1) presented expert testimony in support of the various elements of the rate filing; (2) engaged in discovery and reviewed and evaluated the filing; and (3) participated in extensive settlement negotiations and made compromises, which the Commission has stated "fosters and promotes the public interest." R.D. at 64 (citing *Pa. PUC v. C. S. Water & Sewer Associates*, 74 Pa. P.U.C. 767, 771 (1991)). Moreover, the ALJs found that the unanimous agreement of the Joint Petitioners resulted in lower rate increases than originally proposed by the Company. R.D. at 64.

¹¹ The ALJs' findings with regard to the terms of the Settlement are detailed in their Recommended Decision under Section VI. *See*, R.D. at 26-29, 31, 33-34, 37-38, 40-44, 46-48, 50-55, 57, 59-60.

The ALJs found that the Settlement is supported by substantial evidence, is in the public interest, and is consistent with the requirements of 66 Pa.C.S. § 1308. R.D. at 64. Accordingly, the ALJs recommended that the Commission approve the proposed Settlement without modification and that CUPA file tariff supplements reflecting the rates set forth in its proposed compliance tariffs attached to the Joint Petition as Appendices B (water) and C (wastewater), to become effective August 9, 2023. R.D. at 64.

3. Disposition

Based upon our review of the record, we concur with the ALJs' finding that the proposed Settlement should be approved, in full, without modification. We are of the opinion that the terms of the Settlement produce just and reasonable rates that balance the concerns of all Parties involved and is in the public interest. We also concur with the ALJs that the associated Complaints filed by the OCA and by the OSBA be deemed satisfied. Finally, we concur with the ALJs that the Formal Complaints identified in Ordering Paragraph No. 7 of the Recommended Decision at their respective Docket Nos., including, as discussed, *infra*, the Complaints of the DiPiazzas and Mr. Albanese, be dismissed. *See*, R.D. at 67-70.

D. Pro se Complainants

As noted, *supra*, the following *pro se* Complainants filed Exceptions to the Recommended Decision: the DiPiazzas and Mr. Albanese. We note at the outset that neither the DiPiazzas' Exceptions nor those filed by Mr. Albanese are in strict

compliance with Section 5.533(b) of our Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.533(b), which provides that:

(b) Each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions shall follow each specific exception.

52 Pa. Code § 5.533(b). We recognize, however, that the DiPiazzas and Mr. Albanese are *pro se* Complainants in this proceeding. Traditionally, we have been hesitant to rule unfavorably against *pro se* litigants based on technical grounds. *See, e.g., Destefano v. Peoples Natural Gas Company*, 56 Pa. P.U.C. 489 (1982); *Halpern v. The Bell Telephone Company of Pennsylvania*, Docket No. C-00923950 (October 19, 1992); *William Schlinder v. The Bell Telephone Company of Pennsylvania*, Docket No. F-00161252 (March 26, 1993). In our view, it is in the public interest that all litigants, particularly *pro se* litigants, be afforded a meaningful opportunity to be heard. Therefore, we will consider the merits of the DiPiazzas' Exceptions and Mr. Albanese's Exceptions.

1. Exceptions of the DiPiazzas¹²

In their Exceptions, the DiPiazzas express their disagreement with the proposed Settlement. Specifically, the DiPiazzas note that two years earlier, the Commission approved CUPA's requested increase, which ultimately resulted in the Tamiment water consumption charge increasing from \$5.13 per thousand gallons to \$11.45 per thousand gallons, or 123%. The DiPiazzas continue that here, under the terms of the Settlement, the water consumption rate will increase from \$11.45 per thousand gallons to \$21.12 per thousand gallons, or 84%. The DiPiazzas strongly disagree with this increase given, *inter alia*, the current rate of inflation and the fixed incomes of the

¹² As previously noted, no Replies to the Exceptions of the DiPiazzas were filed.

residents of Tamiment. The DiPiazzas also point out that under the Settlement, the base rate for wastewater will increase from \$26.15 to \$39.90, or 53%, and the wastewater consumption charge will increase from \$13.98 to \$18.00, or 29%. Further, the DiPiazzas contend that the expansion of eligibility for CUPA's low-income program will only impact a limited number of residents. The DiPiazzas close their Exceptions by arguing that, essentially, the Settlement should be rejected in its entirety as not being in the public interest. DiPiazza Exc. at 1.

2. Exceptions of Mr. Albanese and Replies

In his Exceptions, Mr. Albanese expresses his disagreement with the ALJs allowing CUPA to increase the water and wastewater bills in Tamiment by 69.05% and 58.65%, respectively. Mr. Albanese argues that given, *inter alia*, the rate of inflation and cost of living increases over the past several years, CUPA should limit such increases and all future proposed rate increases to reasonable and "sane" percentage amounts. Albanese Exc. at 1.

In its Replies to Exceptions, CUPA counters that although the Settlement, consistent with the Commission's Regulations, required that any party objecting to the Settlement submit objections to the Settlement, Mr. Albanese failed to object to the Settlement. Specifically, CUPA contends that where a party fails to raise objections to the Settlement, that Party cannot raise issues, via exceptions, issues that could have been addressed in an objection because that prevents an opportunity for the parties to respond and for the ALJ(s) to address issues. CUPA R. Exc. at 3-4 (citing *Pa. PUC v. City of Lancaster*, Docket Nos. R-00049862 & R-00049862C0001 (Tentative Opinion and Order entered January 31, 2007), 2007 WL 517134 at *15 (citing *Application of Apollo Gas Company*, 1994 Pa PUC LEXIS 45 (1994))). CUPA continues that here, because Mr. Albanese failed to file an objection to the Settlement and raise the arguments he

made in his Exceptions, the Exceptions are, therefore, waived and the Commission should deny his Exceptions. CUPA R. Exc. at 4.

CUPA also disagrees with Mr. Albanese's argument that the rate increases do not account for inflation or cost of living increases over the last several years, arguing that utility base rates are not based on such factors. CUPA counters that a public utility's rates must be developed based on specific proven costs to serve its customers and provide the utility the legally required opportunity to earn a fair return on its investment. CUPA R. Exc. at 4-5 (citing *Bluefield Water Works & Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679, 692-93 (1923); see also, *Federal Power Commission v. Hope Natural Gas*, 320 U.S. 591, 603 (1944)). Further, CUPA argues that when determining whether the Settlement is in the public interest, the revenue increases cannot be considered in a vacuum apart from the commitments the Company has made as part of the Settlement, including: (1) the "stay out" provision, which provides customers with rate stability and benefits all Parties in this proceeding and the Commission by avoiding the time and expense of fully litigating another rate case for at least 1.5 years; and (2) the enhancements to the Company's Low-Income Program. CUPA R. Exc. at 5 (citing Settlement at ¶¶6, 13, 15-16). Moreover, CUPA notes that the Settlement provides a lower rate increase than what was proposed in its initial filing. Furthermore, CUPA argues that Mr. Albanese's Exceptions provide no rational argument or basis for the Commission to reject the Settlement. Accordingly, CUPA submits that absent any evidence that the Settlement is not in the public interest and results in rates that are not just and reasonable, and given the benefits provided by the Settlement, the Commission should approve the Settlement and reject Mr. Albanese's Exceptions. CUPA R. Exc. at 5-6.

3. Disposition of Exceptions

We find no merit in the DiPiazzas' Exceptions. We note that the DiPiazzas had the opportunity to file comments with respect to the Settlement and had the option to join the Settlement, to object to the Settlement, or to take no action. The record shows that the DiPiazzas opted not to file any objections or comments to the Settlement. Nevertheless, the DiPiazzas now contend that the Settlement, including CUPA's agreement to expand its low-income program, is not in the public interest. However, even if we were to consider the DiPiazzas' arguments, they fail to make a convincing argument that the ALJs erred in recommending that the Settlement be approved in full, without modification. Accordingly, we conclude that the DiPiazzas were afforded every opportunity to participate in the process and to have their concerns addressed. Therefore, for the above reasons, the DiPiazzas' Exceptions are denied.

Similarly, we find no merit in Mr. Albanese's Exceptions. As CUPA points out, Mr. Albanese did not present any of his arguments or objections to the Settlement until he filed Exceptions to the ALJs' Recommended Decision. *See*, CUPA R. Exc. at 4. Furthermore, Mr. Albanese never specifically addresses the Settlement in his Exceptions. Instead, Mr. Albanese's Exceptions simply restate the assertions he made in his original Formal Complaint that was filed in this proceeding, in opposition to CUPA's proposed rate increase. *See*, Albanese Rate Complaint at 2. Notwithstanding, it is important to note that even if we considered the arguments Mr. Albanese set forth in his Exceptions, we find that similar to the DiPiazzas, Mr. Albanese fails to make a convincing argument that the ALJs erred in recommending that the Settlement be approved in full, without modification. As such, we shall deny Mr. Albanese's Exceptions.

To the extent that the DiPiazzas and Mr. Albanese argue that the Settlement is not in the public interest, we are persuaded by CUPA's averment that when

determining whether the Settlement is in the public interest, the revenue increases cannot be considered separate from the Company's commitments as part of the Settlement. *See*, CUPA R. Exc. at 5. Indeed, as noted by the ALJs, the Joint Petitioners negotiated the Settlement, including the agreed-upon revenue requirement increase that represents a reduction from CUPA's initial proposal, which they assert to be in the public interest and of benefit to the Company's customers. R.D. at 26-27. Moreover, when each of the statutory advocates (I&E, the OCA and the OSBA) fully support a settlement, it is a good indicator that the terms and conditions of the settlement are just and reasonable. *See, Pa. PUC, et al. v. Aqua Pennsylvania, Inc.*, Docket No. R-2018-3003558, et al. (Opinion and Order entered May 9, 2019) (citing *Pa. PUC v. T.W. Phillips Gas and Oil Co.*, Docket No. R-2010-2167797 (Order entered November 4, 2010)). Here, we find it significant that the statutory advocates fully support the proposed Settlement. We, therefore, conclude that the principle of gradualism was properly considered by the Joint Petitioners and the ALJs when they developed their consensus position embodied in the proposed rates.

In summary, we find that Mr. Albanese and the DiPiazzas have not presented a valid basis for us to reverse the ALJs' recommendation that the Settlement be approved in full, without modification. Rather, we find the Settlement rates to be fully supported by the record evidence in this proceeding and in the public interest. Accordingly, both Mr. Albanese's Exceptions and the DiPiazzas' Exceptions are denied.

IV. Conclusion

Based on our review, evaluation, and analysis of the record in this proceeding, we conclude that the Settlement is in the public interest. Consequently, we shall deny both the DiPiazzas' Exceptions and Mr. Albanese's Exceptions, and adopt the ALJs' recommendation that: (1) grants the Joint Petition and adopts the proposed Settlement, in full, without modification; and (2) authorizes CUPA to file tariff supplements reflecting the

rates set forth in its proposed compliance tariffs attached to the Joint Petition as Appendix B (for water) and Appendix C (for wastewater), consistent with this Opinion and Order;

THEREFORE,

IT IS ORDERED:

1. That the Exceptions filed by Richard and Susan DiPiazza on May 30, 2024, to the Recommended Decision of Administrative Law Judges Steven K. Haas and Alphonso Arnold III, are denied.

2. That the Exceptions filed by Joseph Albanese on June 4, 2024, to the Recommended Decision of Administrative Law Judges Steven K. Haas and Alphonso Arnold III, are denied.

3. That the Recommended Decision of Administrative Law Judges Steven K. Haas and Alphonso Arnold III, issued on May 28, 2024, is adopted.

4. That the Joint Petition for Full Settlement of Rate Proceedings, filed by Community Utilities of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate, on April 26, 2024, at Docket Nos. R-2023-3042804 and R-2023-3042805, is granted, and the proposed Settlement is adopted, in full, without modification.

5. That Community Utilities of Pennsylvania, Inc. shall not place into effect the rates contained in Supplement No. 13 to Tariff Water – Pa. P.U.C. No. 1, as filed.

6. That Community Utilities of Pennsylvania, Inc. shall not place into effect the rates contained in Supplement No. 11 to Tariff Wastewater – Pa. P.U.C. No. 1, as filed.

7. That Community Utilities of Pennsylvania, Inc. shall file tariff supplements or tariff revisions incorporating rates, rules, and regulations, consistent with the Joint Petition for Full Settlement of Rate Proceedings, to produce a total increase of \$1,227,538 for its water operations, and \$1,447,621 for its wastewater operations, consistent with the rates, rules, and regulations set forth in the tariff supplements included in the Joint Petition for Full Settlement of Rate Proceedings as Appendices B (Water) and C (Wastewater).

8. That Community Utilities of Pennsylvania, Inc. shall be permitted to file tariffs in the form set forth in Appendices B (Water) and C (Wastewater) to the Joint Petition for Full Settlement of Rate Proceedings, to become effective upon at least one day's notice, for service rendered on and after August 9, 2024, so as to produce an annual increase in revenues, consistent with this Opinion and Order.

9. That Community Utilities of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate shall comply with the terms of the Joint Petition for Full Settlement of Rate Proceedings submitted in this proceeding, as though each term and condition stated therein had been the subject of an individual ordering paragraph.

10. That the Formal Complaints of the Office of Consumer Advocate at Docket Nos. C-2023-3044737 (Water) and C-2023-3044738 (Wastewater) are deemed satisfied and marked closed.

11. That the Formal Complaints of the Office of Small Business Advocate at Docket Nos. C-2023-3044494 (Water) and C-2023-3044528 (Wastewater) are deemed satisfied and marked closed.

12. That the following Formal Complaints at the respective docket numbers be dismissed and marked closed by the Commission's Secretary's Bureau:

<u>Complainant(s)</u>	<u>R-2023-3042804</u>
Oleg Chuchin	C-2023-3044483
John Hoopingarner	C-2023-3044502
Rose Cocklin	C-2023-3044507
Michael Sanfilippo	C-2023-3044480
Rafail Kovalenko	C-2023-3044599
Jenny Howard	C-2023-3044711
Christine Corbissero	C-2023-3044834
Scott and Vicky Furey	C-2023-3044882
Christina Boers	C-2023-3044944
George and Miriam Lingg	C-2023-3044979
Gregory Leone	C-2023-3045126
Cassandra Kramer	C-2024-3045350
Monica Wagner	C-2024-3045352
Nanette De Bartolo	C-2024-3045504
Susan J. Nikolaou	C-2024-3045546
Denise Cooper	C-2024-3045511
Ryan Ellison	C-2024-3045529
Craig Morris	C-2024-3045534
Anna Majewski	C-2024-3045535
Richard and Susan DiPiazza	C-2024-3045541
Brian Morrison	C-2024-3045560
Joseph Bellatoni	C-2024-3045068
Joseph Albanese	C-2024-3045828
Gail Bechtold and Thomas Romano	C-2024-3045846
Mario Carlino	C-2024-3045937
Nicholas Corforte	C-2024-3045975
Linda DiGregorio	C-2024-3045856
Rich Franzen	C-2024-3045982
Catherine Gilchrist	C-2024-3045943
Steven and Carol Krauss	C-2024-3045910
Patricia Lathrop	C-2024-3045944

Susan Maeri	C-2024-3045978
Kristen Martin	C-2024-3045976
Peter Mauro	C-2024-3045861
Patricia Merrill	C-2024-3046298
Grace Moro	C-2024-3045802
Suzie Napolitano	C-2024-3045876
Christ and Carol Nielsen	C-2024-3045553
Thomas and Patricia Parillo	C-2024-3045969
Penn Estates POA, Inc	C-2024-3045863
Antonia and Ramon Rivas	C-2024-3045986
Mary Rossetti	C-2023-3044561
Larisa Shin	C-2024-3045549
Tom Chladny	C-2024-3046401
Margaret Creo	C-2024-3046735
Ernesha Halloway	C-2024-3045359
David Lambie	C-2024-3045801
Natalie Ortiz	C-2023-3045148
Anna Paryzki	C-2024-3045533
Grazyna Parzyka	C-2024-3045542
Petricia Perville-Davy	C-2024-3045389
Raju Shah	C-2024-3047313
Angela Tam	C-2024-3045333

<u>Complainant(s)</u>	<u>R-2023-3042805</u>
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Oleg Chuchin	C-2023-3044508
John Hoopingarner	C-2023-3044503
Rose Cocklin	C-2023-3044508
Michael Sanfilippo	C-2023-3044481
Rafail Kovalenko	C-2023-3044649
Jenny Howard	C-2023-3044712
Christine Corbissero	C-2023-3044835
Scott and Vicky Furey	C-2023-3044887
Christina Boers	C-2023-3044945
George and Miriam Lingg	C-2023-3044993
Gregory Leone	C-2023-3045127
Cassandra Kramer	C-2024-3045356
Monica Wagner	C-2024-3045357
Nanette De Bartolo	C-2024-3045510
Susan J. Nikolaou	C-2024-3045557
Denise Cooper	C-2024-3045515
Ryan Ellison	C-2024-3045531
Craig Morris	C-2024-3045782

Anna Majewski	C-2024-3045547
Richard and Susan DiPiazza	C-2024-3045556
Brian Morrison	C-2024-3045564
Joseph Bellatoni	C-2024-3045149
Joseph Albanese	C-2024-3045837
Gail Bechtold and Thomas Romano	C-2024-3045847
Mario Carlino	C-2024-3045973
Nicholas Corforte	C-2024-3045974
Linda DiGregorio	C-2024-3045857
Rich Franzen	C-2024-3046077
Catherine Gilchrist	C-2024-3045972
Steven and Carol Krauss	C-2024-3045911
Patricia Lathrop	C-2024-3045970
Susan Maeri	C-2024-3045979
Kristen Martin	C-2024-3045977
Peter Mauro	C-2024-3045862
Patricia Merrill	C-2024-3046299
Grace Moro	C-2024-3045803
Suzie Napolitano	C-2024-3045877
Christ and Carol Nielsen	C-2024-3045563
Thomas and Patricia Parillo	C-2024-3045557
Penn Estates POA, Inc	C-2024-3045830
Antonia and Ramon Rivas	C-2024-3045981
Mary Rossetti	C-2023-3044538
Larisa Shin	C-2024-3045561
Tigron Petrosian	C-2024-3045833
Laura Brennan	C-2024-3044709
Brian Fenimore	C-2023-3044383
Robert Zwahlen	C-2024-3045808
Ernesha Bolden	C-2024-3045716
David Fardig	C-2024-3045355
Lynn Buckingham	C-2024-3045354
Daniel McKoy	C-2024-3045480
Rene Bressant	C-2024-3045559
Christopher Williams	C-2024-3045661

13. That, upon acceptance and approval by the Commission of the tariffs and allocation of proposed settlement rate increase filed by Community Utilities of Pennsylvania, Inc., consistent with this Order, the Commission's investigation, at Docket Nos. R-2023-3042804 and R-2023-3042805, shall be terminated and these dockets marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: August 1, 2024

ORDER ENTERED: August 1, 2024