

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2024-3047068
Office of Consumer Advocate	:	C-2024-3048327
Office of Small Business Advocate	:	C-2024-3048411
Annette Martin	:	C-2024-3048409
Met-Ed Industrial Users Group,	:	C-2024-3048673
the Penelec Industrial Customer Alliance	:	
and the West Penn Power Industrial Intervenors	:	
Donald Ellenberger	:	C-2024-3048783
Pennsylvania State University	:	C-2024-3048958
Connie Dunmyer	:	C-2024-3049013
Mark Bowers	:	C-2024-3049014
Amy Stutzman	:	C-2024-3049016
Amy Stutzman	:	C-2024-3049017
Hattie Coates	:	C-2024-3049021
John J. Dolan	:	C-2024-3049128
Utility Workers Union of America Local 102	:	C-2024-3049235
David R. VanNorman, Jr.	:	C-2024-3049599
Roland Hoffman	:	C-2024-3049608
David Hoffman	:	C-2024-3049661
Judith A. Garofolo	:	C-2024-3049665
Elaine Kitts	:	C-2024-3049679
Ryan Gandelman	:	C-2024-3049683
Beth Gandelman	:	C-2024-3049774
Charles E. Schwering	:	C-2024-3049805
John Piccinic	:	C-2024-3049957
Henry Barzilay	:	C-2024-3049999
Stanley and Lois LaFuria	:	C-2024-3050000
Albert Dilworth	:	C-2024-3050001
Jackie Stoner	:	C-2024-3050413
Carol Ann Eroh	:	C-2024-3050849
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	:	
v.	:	
	:	
	:	
FirstEnergy Pennsylvania Electric Company	:	

RECOMMENDED DECISION

Before
Katrina L. Dunderdale

Emily I. DeVoe
Administrative Law Judges

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	HISTORY OF THE PROCEEDINGS	1
	A. Procedural History	1
	B. Public Input Hearings	9
III.	LEGAL STANDARDS	30
	A. General Rate Increase Proceedings.....	30
	B. Legal Standards for Settlements	33
	C. Revenue Requirement.....	34
	D. Black Box Settlements.....	35
IV.	PROPOSED FINDINGS OF FACT	37
V.	TERMS AND CONDITIONS OF SETTLEMENT	58
	A. Description and Terms of the Settlement.....	59
	B. Additional Settlement Provisions	71
	C. Impact of Proposed and Settled Rates	72
VI.	JOINT PETITIONERS' POSITIONS ON THE SETTLEMENT	73
	A. FirstEnergy's Statement in Support.....	74
	B. BIE's Statement in Support	74
	C. OCA's Statement in Support	74
	D. OSBA's Statement in Support	75
	E. CAUSE-PA's Statement in Support	75
	F. LUG's Statement in Support.....	75
	G. PSU's Statement in Support.....	76
	H. Walmart's Statement in Support.....	76
	I. IBEW Local 777's Statement in Support.....	77
	J. IBEW Local 459's Statement in Support.....	78
	K. UWUA Local 102's Statement in Support	78
VII.	DISCUSSION	78
	A. General Rates	79
	B. Revenue Requirement.....	80
	C. Revenue Allocation and Rate Design	93
	D. Rate Case Stayout	109
	E. Distribution System Improvement Charge (DSIC) Reporting.....	113
	F. Accounting.....	118
	G. Customer Service and Universal Service Issues.....	152
	H. Additional Provisions.....	226
	I. Presiding Officers' Directed Questions	253
	J. Discussion and Recommendation	255
VIII.	PRESIDING OFFICERS' FINAL RECOMMENDATION	256
IX.	CONCLUSIONS OF LAW	256
	ORDER.....	261

I. INTRODUCTION

This Recommended Decision concerns the proposal of FirstEnergy Pennsylvania Electric Company, to increase its overall base rates by approximately \$502 million, or 34%, per year across all four of its Rate Districts, in addition to its proposal to increase the residential fixed monthly charge in its four Rate Districts and implement or alter some programs. This base rate decision recommends the Commission: (1) approve a joint settlement for base rates to be effective on or before January 1, 2025; (2) deny some changes to the tariff proposed in FirstEnergy Pennsylvania Electric Company's initial filing, consistent with the joint settlement; and (3) permit FirstEnergy of Pennsylvania Electric Company to increase its overall base rates by approximately \$225 million per year. The last public meeting before January 1, 2025 will take place on December 19, 2024.

II. HISTORY OF THE PROCEEDINGS

A. Procedural History

On April 2, 2024, FirstEnergy Pennsylvania Electric Company (FirstEnergy PA, FE PA, FE, or the Company), filed Supplement No. 3 to Tariff Electric Pa. P.U.C. No. 1 (Initial Filing or Supplement No. 3) to become effective June 1, 2024, containing a proposed general increase in electric distribution rates of \$503,848,000, or 34%, in additional annual revenues for the four Rate Districts: Met-Ed; Penelec; Penn Power and West Penn. The proposed base rate increase included the following proposed increases:

1. For Met-Ed Rate District: a proposed increase of \$146,332,000 (or 31%), raising the monthly bills of the average residential customer using 1,000 kWh from \$187.70 to \$205.00, for a 9.2% increase.

2. For Penelec Rate District: a proposed increase of \$132,963,000 (or 28%), raising the monthly bills of the average residential customer using 1,000 kWh from \$200.96 to \$220.75, for a 9.8% increase.

3. For Penn Power Rate District: a proposed increase of \$54,764,000 (or 43%), raising the monthly bills of the average residential customer using 1,000 kWh from \$180.59 to \$201.88, for a 11.8% increase.

4. For West Penn Rate District: a proposed increase of \$169,789,000 (or 40%), raising the monthly bills of the average residential customer using 1,000 kWh from \$156.36 to \$172.98, for a 10.6% increase.

FirstEnergy is a “public utility” and “electric distribution company,” as those terms are defined at 66 Pa.C.S. §§ 102 and 2803, which provides electric distribution and transmission services throughout Pennsylvania through the following four Rate Districts:

a. Met-Ed provides service to more than 590,000 customers within 3,300 square miles of eastern and southcentral Pennsylvania. In 2023, Met-Ed had a summer peak load of about 2,890 MW, with about two-thirds of that load attributable to residential and small commercial customers.

b. Penelec provides service to more than 589,000 customers within 17,600 square miles of western, northern and southern central Pennsylvania, as well as western New York. In 2023, Penelec had a summer peak load of about 2,763 MW, with about two-thirds of that load attributable to residential and small commercial customers.

c. Penn Power provides service to more than 171,000 customers within 1,100 square miles of western Pennsylvania. In 2023, Penn Power had a summer peak load of about 900 MW, with about three-quarters of that load attributable to residential and small commercial customers.

d. West Penn provides service to more than 739,000 customers within 10,400 square miles of northern, south central and southwestern Pennsylvania. In 2023, West Penn had a summer peak load of about 3,706 MW, with about two-thirds of that load attributable to residential and small commercial customers.

The proposed base rate increase requested in this filing is based on the use of a Fully Projected Future Test Year (“FPFTY”) ending December 31, 2025. Furthermore, FE PA proposes to roll into distribution base rates its Distribution System Improvement Charge (“DSIC”) Rider, Smart Meter Technologies Charge (“SMT-C”) Rider, State Tax Adjustment Surcharge (“STAS”) Rider, and Tax Cuts and Jobs Act (“TCJA”) Voluntary Surcharge Rider, and to recover its storm related deferral and COVID-19 related deferral.

On April 9, 2024, the Bureau of Investigation & Enforcement (BIE) filed a Notice of Appearance.

On April 10, 2024, the Office of Consumer Advocate (OCA) filed a public statement and Formal Complaint at Docket No. C-2024-3048327.

On April 16, 2024, the Office of Small Business Advocate (OSBA) filed a public statement and Formal Complaint at Docket No. C-2024-3048411.

On April 24, 2024, the Met-Ed Industrial Users Group (MEIUG), the Penelec Industrial Customer Alliance (PICA) and the West Penn Power Industrial Intervenors (WPPII)(collectively, referred to as “Large Users Group” filed a Formal Complaint at Docket No. C-2024-3048673.

Petitions to Intervene were filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Walmart, Inc. (Walmart), the International Brotherhood of Electrical Workers Local 459 (IBEW-459) and the International Brotherhood of Electrical Workers Local 777 (IBEW-777).

Additionally, twenty-two customers filed Formal Complaints against the rate increase.

By Order entered April 25, 2024, the Commission suspended the implementation of Supplement No. 3 to Tariff Electric Pa. P.U.C. No. 1 by operation of law, pursuant to 66 Pa.C.S. § 1308(d), until January 1, 2025, unless permitted by Commission Order to become effective at an earlier date, and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed in Supplement No. 3. On April 25, 2024, the Office of Administrative Law Judge (OALJ) scheduled a prehearing conference to be conducted telephonically on May 2, 2024.

On May 2, 2024, the presiding officer conducted a call-in telephonic prehearing conference with the parties in which various procedural matters were discussed and a litigation schedule was established. Present during the call-in telephonic prehearing conference were counsel representing the following: FirstEnergy PA; BIE; OCA; OSBA; CAUSE-PA; Large Users Group, IBEW-459; and IBEW-777.

On May 10, 2024, the Pennsylvania State University (PSU) filed a Formal Complaint at Docket No. C-2024-3048958.

On May 15, 2024, the OALJ scheduled fourteen (14) in-person public input hearings and four (4) telephonic public input hearings. Two in-person public input hearings per day were scheduled to be conducted, starting at 1:00 p.m. and 6:00 p.m., at the following locations and dates:

East Stroudsburg on June 25, 2024

Reading on June 26, 2024

State College on June 27, 2024

Erie on July 9, 2024

Butler on July 10, 2024

Greensburg on July 11, 2024

Washington on July 12, 2024

On May 22, 2024, the OALJ issued the In-Person Public Input Hearings Notice and the Telephonic Public Input Hearings Notice. The Prehearing Order was issued on June 6, 2024, which memorialized the discussions at the prehearing conference.

On May 25, 2024, UWUA System Local 102 filed a Formal Complaint at Docket No. C-2024-3049235.

On June 24, 2024, FirstEnergy filed its Notice of Publication with the Secretary's Bureau, consisting of 141 pages and with proofs of publication included, evidencing publication about the various public input hearings. Publication occurred on June 15, 2024; June 16, 2024; June 17, 2024; June 18, 2024; June 19, 2024; and June 20, 2024, in various publications of general circulation in FirstEnergy's territory.

On August 5, 2024, the OALJ issued the Initial Telephonic Evidentiary Hearings Notice, scheduling the evidentiary hearings to be conducted on August 15, 2024; August 16, 2024; and August 19, 2024.

On August 15, 2024, the presiding officer issued a Protective Order pursuant to the Motion for Protective Order filed by FirstEnergy on August 15, 2024, immediately prior to the start of the evidentiary hearing.

On August 15, 2024, the presiding officer convened the parties and conducted the telephonic evidentiary hearing. Present were the following parties: FirstEnergy, BIE, OCA, OSBA, Large Industrial Users, UWUA Local 102, IBEW Local 459; IBEW Local 777; Wal-Mart, CAUSE-PA, and PSU. At the start of the evidentiary hearing, FirstEnergy advised the presiding officers a settlement in principle had been reached between FirstEnergy and most of the other active parties except IBEW Local 777. The parties requested additional time in which to discuss settlement and believed a unanimous settlement was possible. The presiding officers granted the request for additional time and ordered the parties to reconvene on Monday, August 19, 2024 at 10:00 a.m., and to be prepared to either confirm a unanimous settlement had been reached or present evidence for admission into the hearing record. The presiding officers concluded the proceedings on August 15, 2024. The hearing on August 15, 2024 generated transcript pages 592 through 656.

On August 19, 2024, the presiding officers reconvened the evidentiary hearing. Cross examination of two FE PA witnesses, one OCA witness, and IBEW Local 777's witness was conducted. In addition, FE PA witnesses Joanne Savage and Tracy Ashton provided supplemental testimony and exhibits responding to the Administrative Law Judges' (ALJs') directed questions. FE PA Exhibits JMS-6 and Exhibits TMA-6

through TMA-10 were admitted into the record. The parties averred a little more time was needed to finalize settlement discussions and requested a recess until later in the day.

The presiding officers recessed the hearing as the parties requested. After the recess, the active parties indicated a settlement was reached in full. The presiding officers concluded the proceedings on August 19, 2024. The hearing generated transcript pages 657 through 800.

On August 19, 2024, FirstEnergy filed a Joint Stipulation for Admission of Evidence (Stipulation to Admit Evidence) on behalf of itself and other active parties. The Joint Stipulation to Admit evidence requested the presiding officers admit into the hearing record the testimony and exhibits specified in a list provided by the signatories. The signatories on the Stipulation to Admit Evidence were FirstEnergy, BIE, OCA, OSBA, CAUSE-PA, Large Users Groups, IBEW Local 777, IBEW Local 459, Walmart, Penn State and UWUA Local 102. Attached to the Stipulation to Admit Evidence were signed verifications for all the witness statements.

On August 21, 2024, the presiding officers issued the First Post-Hearing Order, admitting into the hearing record the statements and exhibits proffered by the parties.¹ The statements and exhibits admitted into the record by the First Post-Hearing Order are listed in Attachment A to this Recommended Decision.

On September 10, 2024, FirstEnergy provided the presiding officers with a confidential summary list of the settlement provisions.

¹ On August 22, 2024, a Corrected Post-Hearing Order was issued due to an inadvertent error in the First Post-Hearing Order that did not include OCA as one of the parties which submitted evidence.

On September 13, 2024, FirstEnergy, on behalf of all signatories, filed the Petition for Joint Settlement (Settlement), including Statements in Support. The following parties joined with FirstEnergy in requesting the Commission approve the proposed Settlement: BIE, OCA, OSBA, CAUSE-PA, Wal-Mart, Large Industrial Users, UWUA Local 102; IBEW Local 459 and IBEW Local 777 (collectively the signatories, the Settling parties or Joint Petitioners).

The Settlement is 36 pages, excluding appendices. Attached to the Settlement are Appendices A-U. Appendix A is the *pro forma* tariff supplement, Appendix B is the proof of revenues, Appendix C is information regarding the effect of Settlement on rates for FE PA's customer classes, Appendix D contains the Rate D schedules, Appendix E is the Revenue Allocation, Appendix F is a rate design example of the new LED Streetlighting Conversion Program (LEDC) Rider, as provided for by the Settlement. Appendix G is a List of Abbreviations, and Appendices H-J are the Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs, respectively. Finally, the Joint Petitioners' respective Statements in Support of the Settlement are included as Appendices K through U.

On September 16, 2024, the presiding officers issued a letter to all formal complainants advising of their right to comment, agree or object to the Settlement and explaining how their responses could be included in the hearing record. The formal complainants were advised to submit all comments in favor of or in opposition to on or before September 26, 2024. As of the date the record closed, no comments were received from the formal complainants.

Prior to September 27, 2024, Formal Complaints were filed by twenty-two (22) pro se formal consumer complainants, in addition to four Petitions to Intervene filed by CAUSE-PA, IBEW-459, IBEW-777 and Wal-Mart.

On October 1, 2024, the presiding officer issued the Fifth Interim Order and closed the hearing record. The hearing record consists of transcript pages 1 through 800 in addition to the statements and exhibits listed in Attachment A, appended to the end of this Recommended Decision.

B. Public Input Hearings

Administrative Law Judges conducted fourteen (14) in-person public input hearings in the Company's service territory, plus four (4) telephonic public input hearings, at which a total of twenty-nine (29) individuals testified or appeared.

The first day of in-person public hearings were conducted at the VFW Post #2540 and Canteen, in East Stroudsburg, Pennsylvania, on June 25, 2024, with ALJ Gail Chiodo presiding, which generated Transcript pages 36 to 104. The following individuals testified:

1. Ray Volsario testified he has been a member of the community for over twenty-two years, and he receives service through the Met-Ed rate district. He testified he never had an issue with rate increases until recently and complained Met-Ed did a poor job communicating the rate increase request to customers. During Met-Ed's last rate increase in November 2023, Mr. Volsario testified he received notice from a media outlet in Erie, Pennsylvania, rather than from Met-Ed or any other local source. He noted consumers who live on pensions (like himself), or Social Security do not typically receive increases in income payments and, when there is an increase in the pension and/or Social Security payments, other expenses increase such as his Medicare bill. Mr. Volsario testified increasing the base rate without notification to the public is unfair and he only learned about this proceeding when he called State Representative

Tarah Probst's office regarding another matter. Mr. Volsario testified the most recent Met-Ed electric bill was almost \$75 for his townhome and, with a hot summer projected this year, he expressed concern about the size of his next bill.

2. Russell VanOudenaren testified he is a resident of New Jersey but owns a 1,000 square foot home in Tobyhanna, Pennsylvania. He testified he received notice of the public input hearing by email from his Tobyhanna homeowner's association. He explained he traced the history of his old electric bills to determine whether any increases had occurred in the past year. Mr. VanOudenaren noted his electric bill is composed of: (1) a transmission charge; (2) a generation charge; and (3) a distribution charge. When he entered his billing information from the previous year into a spreadsheet, he found his bills had increased. He noted he still had specific questions that were not to be answered at the time of the public input hearing, but he emphasized disagreement with the overall increase in his billing.

3. David Cornell testified he is a resident of East Stroudsburg and has been a customer for forty-four years. Mr. Cornell testified his home uses a natural gas furnace in one area of his home and an electric heat pump in a different area of the home. He testified he received exceptional service from his electric distribution company for the first twenty years, however, the last twenty years and especially over the last five to ten years, the service has been unreliable. He stated three primary concerns: (1) what percent of the increase would be assigned to right-of-way maintenance; (2) what percent of the budget has been dedicated to right-of-way maintenance; and (3) what planned maintenance is in place. Mr. Cornell noted right-of-way maintenance seems to be a factor in his service issues. He testified he called in at least six outages in the past year. Mr. Cornell noted he has a portable generator but described difficulty carrying the generator. He testified he can see trees on the powerlines along the Delaware Gap to

Stroudsburg and noted that, for some reason, the power will go out for about half of his street (Bryant Street) during power outages.

4. Jessica Smith testified she is a resident on Bryant Street in East Stroudsburg, Pennsylvania. Ms. Smith noted she was appearing on behalf of State Representative Tarah Probst's office but asserted she was testifying on her own behalf. She testified she has lived in the area since 2016 but moved to Bryant Street in 2022. Ms. Smith noted her home is heated by electric baseboard heating and she has experienced multiple outages, which ranged from flickering lights to outages lasting for hours or even overnight. She testified when her home experiences an outage, her next-door neighbor's power will not go out. Ms. Smith testified she is a mother with two children: an autistic seven-year-old son, and a one-year-old daughter. Ms. Smith testified she uses a breast pump to provide milk for her child, which is a painful process requiring dedication to pump milk at all hours of the day. She noted she stores the unused milk in the freezer but often must throw away frozen breast milk because of power outages. Ms. Smith testified she's had to throw away groceries (which in her home amounts to approximately \$200) because of the outages. She noted a neighbor does allow her to rely on that neighbor's generator when an outage occurs.

Ms. Smith testified about physical losses but also testified about her emotional losses. As a mother of a child on the autism spectrum, Ms. Smith described the challenge she experiences when she must explain to her son why the power is out. At those times, her son may cry and scream, which may lead to him waking up his younger sibling and end with him sleeping in his parents' bed, which then causes his parents to lose sleep. Ms. Smith testified she wanted to purchase a generator but highlighted its unaffordability. She compared her residency experience in East Stroudsburg with her residency in New York City – where she recalled losing power three times in the twenty years she resided in New York City. Ms. Smith also testified each time she experiences

an outage, she either calls the Company, or she uses the Company's mobile application to report such outage. Ms. Smith testified she disagrees with the proposed base rate increase request until the Company addresses some of her issues.

The second day of in-person public input hearings were conducted at the Reading Public Museum in Reading, Pennsylvania, on June 26, 2024, with ALJ Gail Chiodo presiding, which generated Transcript pages 105 to 153. The following individuals testified:

5. Marian Wolters testified she is a residential Met-Ed customer. Ms. Wolters testified she uses about the same amount of energy, however in November through December of 2019 she was charged \$5.63 per kilowatt hour initially, with the rate increasing to \$6.68 per kilowatt hour by the end of the year. She compared her Met-Ed rates to PECO Energy and PPL Electric and noted their lower rates in comparison. Her son and his girlfriend live with Ms. Wolters now, and she noted the rates are the same despite her bills increasing. She also found that the distribution charges increased from \$5.50 to \$5.94 since 2019.

Ms. Wolters' primary complaint is the requested increase regards items that FE already charges to the consumers. Ms. Wolters testified she already pays for a customer charge, solar requirement charge, default service support charge, and found the total increase would be about \$16.22. She disagrees with this increase because she believes the increase would only be to the benefit of Met-Ed's shareholders. Ms. Wolters testified she does not understand how the rates are lower at PPL Electric and PECO Energy versus her rates, plus the potential rate increase at Met-Ed.

6. David Tranquillo testified as to the tremendous burden that would be placed on the consumers by the potential base rate increase. Although retired for two

years, he has twenty-two years of experience working for a large company who uses 100 million kilowatt hours a year under Met-Ed, with over 100 accounts and his responsibility was to purchase the electric and review the invoices. He explained that the company rates are significantly lower than his personal Met-Ed rates, which he is charged over 16 cents per kilowatt hour. He requests the Commission reject this rate increase request in the interest of the residential consumers.

The third day of in-person public input hearings were conducted at the Graduate Palo Alto, State College, Pennsylvania, on June 27, 2024, with ALJ Gail Chiodo presiding, which generated Transcript pages 154 to 203. The following individuals testified:

7. Donald G. Albertson testified he has been a West Penn Power customer since 1983, with a three-year exception because he lived out-of-state temporarily. He was questioning why the rate increase is necessary, and claimed perhaps it is to recoup bribes that FirstEnergy's officers paid to people in Ohio.

8. Shirley Gorski testified she is a mother of two young children who has been a resident of Pennsylvania for over ten years. She explained that she is also the caretaker of her parents, and a rate increase would push the family past their breaking point. Ms. Gorski noted she's heartbroken to see priority being given to corporations over people/ratepayers. She testified the rate increase (about 10-11%) is as crucial of an issue as global warming, in that industries are put before people. Ms. Gorski shared a statistic from the Harvard Joint Center of Housing Studies, which found 63% of residents in the State College area are rent burdened and 39% are severely rent burdened. She explained the burden that will be placed upon residents who live paycheck to paycheck (which is over 60% of Americans, generally) will be unbearable. Ms. Gorski testified as a mother of two young children, she has seen families who do not have the proper clothes

for their children in the winter and these families often cannot put food on the table or pay for their utilities. She emphasized the Commission should reconsider distribution prices more evenly to put residents above corporations.

9. John Eaton testified he has been a Met-Ed customer since 1985. He testified when he received notice of the proposed base rate increase, he read through a document about one hundred pages to find an executive summary, or itemized list of what the 40% base rate increase would be used for. Mr. Eaton explained as a retired engineer, he could not understand the document, nor find what the increase would be used for. He testified that as an engineer, he understood to tell a client he needs 40% more money, he needs to provide that client with information as to what the additional money would be used for. Mr. Eaton described the natural gas price increased when Russia invaded Ukraine, from \$.06 to about \$.10 per kilowatt hour. He explained these rates remained the same until after December 2022 when natural gas prices crashed to their lowest level in about fifteen years. He explained the reduction of \$.10 per kilowatt hour to \$.088 per kilowatt hour. Mr. Eaton shared that although consumers have the option to shop, he has an 89-year-old aunt who doesn't use the Internet and is not likely to go shopping for a different supplier. He emphasized his wish to know how exactly the 40% increase will be used. Mr. Eaton agreed with Ms. Gorski in the need for a Commission policy that protects residential customers from bearing the costs of the proposed base rate increase.

10. Matt Herndon testified he is a resident of State College and a FirstEnergy customer. He explained when he first received notice of the proposed base rate increase, he was surprised to see the residential rates being raised much higher than the commercial and industrial rates. Mr. Herndon testified the proposed rate increase seems to benefit commercial and industrial customers rather than residential customers. Mr. Herndon testified he disagrees with the proposed rate increase upon the residential

customers when there are new loads adding to grids for benefits such as crypto mining and artificial intelligence (AI) processing. Mr. Herndon highlighted the unfairness to residential customers to bear the cost burden of a rate increase when it seems that the commercial and industrial customers are the reason for such increase.

The fourth day of in-person public input hearings were conducted at the Erie County Public Library, in Erie, Pennsylvania on July 9, 2024, with ALJ Emily DeVoe presiding which generated Transcript pages 204 to 268. The following individuals testified:

11. Gerald Servidio testified he is a resident of Erie, PA and a Pennsylvania Electric Company (Penelec) customer. Mr. Servidio testified he tried to research Penelec's service areas online. He described Erie has 266,302 citizens and has experienced a negative growth rate. Mr. Servidio noted that of Erie's 50,712 seniors (over the age of 60), 17% of Erie's seniors are over 65 years old, and the poverty rate in the City of Erie is 11.6% while the poverty rate is 8% in the County of Erie. Mr. Servidio testified in 2023-2024, 449,000 Pennsylvanians applied for LIHEAP, and 269,000 Pennsylvanians applied for Crisis requests (with 63,567 Crisis requests approved). He testified he found FirstEnergy's power is provided by 27% coal, 33% gas, and 34% nuclear.

Mr. Servidio explained the overall increases in electric prices, up 30% since 2021, and then described Penelec's variable rate structure. In 2021, the rate structure was 5.667 per kilowatt hours with a rate as high as 10.069 per kilowatt hour. He also noted Penelec's dividend payment in 2023 was \$1.88, averaging about 4.41% with no history of negative dividend payments that he could find. Mr. Servidio testified the proposed increase, especially for Erie County, is unreasonable. He testified he volunteers at a senior center, and recently distributed food vouchers. Within seven hours, 1,658 seniors

came to the Civic Convention Center. Mr. Servidio testified a rate increase would exacerbate the hardship that people already feel in the price of groceries and gas. He believes a portion of the money received by the electric companies should have been put toward the 85,000 streetlights. Mr. Servidio testified that Pennsylvanians have been taken advantage of since the COVID-19 pandemic in the increased costs of living.

12. Melvin Wolf testified he is a residential Penelec customer in the home which his father purchased in 1955, and where Mr. Wolf has lived since 1993. Mr. Wolf testified the voltage fluctuates in his home. He explained sometimes the voltage may decrease to 95 volts when the power line flexes, making it difficult to use appliances such as microwaves. He testified this fluctuation would occur for weeks and testified Penelec told him his electric service was back fed from a substation. Mr. Wolf testifies Penelec did not alleviate the flexing voltage problem after his first call but after his second call, Penelec placed a strip recorder on the power line at the box. Mr. Wolf testified he thinks the transformer serving his home is too small because, when he hears his neighbor's air conditioning turn on simultaneous with when his outdoor lights turn on, there is a fluctuation issue. He noted after a year or more with this problem Penelec replaced the transformer, but Mr. Wolf denied that the transformer replacement solved the problem. Mr. Wolf testified he believed a larger transformer was needed. Mr. Wolf explained the problem was solved eventually after a Penelec employee moved onto his street. In conversations with the Penelec employee, Mr. Wolf asserted he learned the Penelec employee had installed capacitors to boost the voltage. Mr. Wolf testified he wants to see the octane and fuel on his bill, along with the applied voltage supplied at his home. Mr. Wolf testified he agrees with FE's proposed base rate increase because FE needs the money for infrastructure improvement.

13. Colin Russ testified he is a Penelec customer for four years and receives service to his home. He testified about 120,000 Penelec customers experienced

3,733,126 outage hours in Erie County from 2018 to 2023. Mr. Russ testified he read the 2022 PUC Electric Reliability Report, which showed high CAIDI² safety benchmarks. He also read that CAIDI increased from 141 minutes in 2021 to 199 minutes at the end of 2022, which failed benchmarks by 70.1%. Mr. Russ testified there was a SAIDI³ increase from 277 minutes to 364 minutes, which failed the benchmark by 146%. He testified about Penelec's inconsistent CAIDI performance since 2004, although he noted there have been reports of recent improvements. Mr. Russ is concerned with the last two rate cases, as they were decided in a black box. He noted Penelec's lack of performance with 27% of outages due to equipment failure, 24% of outages due to trees falling within rights-of-way, and 10% of outages due to unknown causes. Mr. Russ testified the parent company to FirstEnergy plans to target a 60-70% payout ratio, with 6-8% growth in earnings per share in the coming years.

Mr. Russ emphasized the abysmal reliability of the local distribution network. He testified he would like to see ring-fencing of utilities and suspension of dividends until the utility meets the safety benchmarks. Mr. Russ suggested the proposed base rate increase be conditional upon the utility's performance and he hopes to see long-term solutions, such as underground powerlines for improved maintenance. Mr. Russ also testified FE needs to do better making information accessible to the customers, and requests the Commission disallow FirstEnergy's payment of membership dues for organizations such as Edison Electric Institute and other entities that lobby actively against proposals that might benefit consumers.

The fifth day of in-person public input hearings was held at Butler County Community College, in Butler, Pennsylvania on July 10, 2024, with ALJ Katrina

² Customer Average Interruption Duration Index, or CAIDI.

³ System Average Interruption Duration Index, or SAIDI.

Dunderdale presiding, which generated Transcript pages 269 to 300. The following individual testified:

14. David W. Badger testified he is a Penn Power customer who receives service at his home in New Galilee. Although Mr. Badger is a council member of New Beaver Borough in Lawrence County, he testified as a private citizen. Mr. Badger received notice of the proposed base rate increase through a notice published in the Newcastle News. The notice also said a copy of the material about the proposed base rate increase was available upon request. Mr. Badger testified he called Penn Power requesting the reasons for the proposed base rate increase but Penn Power's representative told him he could not have access to that material – after he spent thirty minutes answering automated questions about his account. Mr. Badger explained he was so shocked at this denial, he hung up.

Mr. Badger then redialed Penn Power, hoping for a different representative to ask for the same information but was again told he could not have access to that information. He noted he requested to speak with a supervisor, who again told Mr. Badger he could not access the information as to why Penn Power requested a base rate increase. Once disconnected from that call, Mr. Badger called Penn Power again and was immediately connected to a supervisor. The supervisor put Mr. Badger on hold to determine whether the information could be given to Mr. Badger, but after keeping him on hold for fifteen minutes the call disconnected.

After these three calls, Mr. Badger called Penn Power again and was again immediately connected to a supervisor. The supervisor suggested that Mr. Badger purchase his electric service from another company, and again told Mr. Badger he could not give him the information Mr. Badger requested. Mr. Badger testified he shared this experience with a relative, who then took the same steps Mr. Badger did and who also

was denied the same information. Mr. Badger relayed this experience to a PA state representative, whose office also tried to learn information about the proposed base rate increase from Penn Power only to have Penn Power hang up on the state representative's office. Mr. Badger testified the proposed base rate increase should be denied until FE makes accessible the reasons for the proposed base rate increase.

The sixth day of in-person public input hearings was held at Greensburg Garden and Civic Center in Greensburg, Pennsylvania, on July 11, 2024, with ALJ Katrina Dunderdale presiding, which generated Transcript pages 301 to 374. The following individuals testified:

15. Susan Jennings testified in Greensburg, Pennsylvania. She is a West Penn Power customer who receives service at her home in Mount Pleasant, PA. Ms. Jennings opposes the proposed base rate increase, and requests FirstEnergy implement an option to ratepayers to opt out of installation of a smart meter. She testified she has hardwired computer equipment and does not use a microwave in her home to avoid radio frequency emissions. Ms. Jennings testified a smart meter does not allow her to avoid radio frequencies because of its functionality. Ms. Jennings testified customers have paid at least \$620 million for West Penn Power's Smart Meter Program but claims she has not received any benefits from the program, and she has been harmed by the radio frequencies the smart meter emits. She testified FirstEnergy's PA division requests the highest base rate increase at 11.3%, as compared to 9.6% in New Jersey where the customers have an option to opt out of smart meter installation.

Ms. Jennings testified about the vulnerability of smart meters to cyber hacking. She also testified about the purpose of smart meters to mitigate against increased costs but explained its failure to do so as her utility bills are increasing regardless. She testified the smart meters violate personal liberties because of the

constant monitoring and control the utility company has over the smart meters. Ms. Jennings also testified about the health risks of smart meters such as headaches, difficulty sleeping, and memory loss. Ms. Jennings testified the only accommodation West Penn Power has offered her is to move the smart meter away from her home – which she believes is a very unreasonable accommodation as she does not want the harmful radio frequencies emissions to affect her neighbors either.

Since her son has autism, epilepsy, Sturge-Weber syndrome, electromagnetic sensitivity, and other health conditions, Ms. Jennings emphasized the health risks that the smart meter imposes upon her family. She explained the radio frequencies exacerbate her son's conditions, which resulted in 115 seizures in one day after the smart meter was installed at the home. Ms. Jennings ultimately wants West Penn Power customers to have an opt out option for customers to reject the installation of a smart meter and keep an analog meter because of the hazards a smart meter imposes upon her family.

16. Nick Hoffman testified he is a residential Penelec customer. Mr. Hoffman objects to the proposed base rate increase. He testified about his findings of FirstEnergy's first quarter financial results, which showed \$3.3 billion in revenue with \$316.5 million in operating earnings. He found FirstEnergy affirmed its 2024 non-GAAP earnings of about \$1.5-1.6 million and found an annual increase of about 6-8%. Mr. Hoffman noted the discrepancy between the earnings that FirstEnergy is making, versus its average customer who is struggling to make ends meet. He found in 2023, 78% of Americans were living paycheck to paycheck – which is an increase from 72% in 2022. Mr. Hoffman testified he does the most he can to save money, including cutting his own hair, not eating out, and purchasing the cheapest groceries he can. He testified he once had to pay a monthly fee for the installation of a smart meter.

Mr. Hoffman testified he called Penelec when there was a snapped support wire on a pole near his home, but Penelec's representative told him fixing the support wire was not Penelec's responsibility, but rather Verizon's or another company. Mr. Hoffman noted that customers pay a distribution charge, yet Penelec will not service the poles when there is a reliability issue such as the one Mr. Hoffman experienced. He further testified his non-generation charges on a per kilowatt basis have increased 14% from 2022 to 2023. Mr. Hoffman objects to the proposed base rate increase and hopes the Commission would consider a rate reduction, if possible.

17. Mark Hayward testified he is a residential customer of West Penn Power rate district and has been since 1997. He testified he is employed by FirstEnergy as an electrician at a service center. Mr. Hayward testified customers complain about lights blinking, old trucks, computers not working, or West Penn Power not maintaining the grass around the substation. Mr. Hayward testified the grass growth is sometimes approximately eight inches high. He testified customers pay for special equipment for alternate power to their property, and there is no longer maintenance on the special equipment.

Mr. Hayward testified there has been a decrease in utility reliability. He explained in his subdivision the lights blinked four times after a tornado went through the area recently. Mr. Hayward testified he knows the trimming on the lines has been horrible because the vegetation overgrowth is visible. He testified the primary issue is because of West Penn Power's attempt to have a diverse workforce, resulting in a job not done well because employees have no experience.

Mr. Hayward also testified about a \$60,000,000 bribe in Ohio, and he asserted FirstEnergy may still be trying to save money from that fallout. He testified the Company either laid off or asked about 600 employees to leave the Company in attempt

to save more money. He also described an apprenticeship program which ceased after FE required a degree for eligibility, but then the program was reinstated. Mr. Hayward referenced the apprenticeship program to show the need for more professionals in the Company to keep customers satisfied. He testified the Company contracts with outside employees – people from California, or Florida to do the work but the work is not satisfactory since those outside contractors do not have the proper equipment. He further shared that about ten years ago, West Penn Power was sued because an automatic connection was not made (by an outside contractor) correctly.

Mr. Hayward also testified he remodeled his home and installed LED lights in the home to conserve electricity. After he noticed the LED lights pulse, Mr. Hayward asked the planning engineer to explain but noted the planning engineer is overwhelmed with work, and Mr. Hayward found it difficult to work with the planning engineer one-on-one. However, the Company was able to come to Mr. Hayward's home to check the transformer, after which the Company placed a voltage detection system on the monitor. The Company did not witness any pulsing, so no other action was taken. Mr. Hayward testified the pulsing issue must come from the street, rather than the feed in his home. Although Mr. Hayward still experiences pulsing lights in his home, the outages in his area have been minimal.

The seventh and last day of in-person public input hearings was held at the DoubleTree by Hilton, in Washington, Pennsylvania, on July 12, 2024, with ALJ Katrina Dunderdale presiding, which generated Transcript pages 375 to 451. The following individuals testified:

18. Chris Paluti testified he is a residential customer of West Penn Power and has been a customer for about 40 years. He testified he is a retired electrical engineer living on a fixed income. Mr. Paluti testified about the previous base rate

increases and questioned the purpose of the rate increases, especially given the low prices in natural gas currently. He testified his monthly bill used to be about \$100 but now is closer to about \$200.

Mr. Paluti also discussed reliability issues with electric outages about every four to six weeks, that he believed were caused by an improper maintenance of wires and cables, or poor railway clearance. Mr. Paluti testified vegetation management should be performed every year, especially where there is dead vegetation. He testified smart meters benefit the Company rather than the consumer and he believes there should be an opt-out option to the installation of smart meters for residential customers.

He also testified as to the inaccessibility of information available from West Penn Power about smart meter specifications. Mr. Paluti believes smart meters are an illegal search on the premises and are discriminatory because the Company has discretion to possibly turn off a customer's electric service because of their usage amount. Mr. Paluti testified as to the greater reliability of an analog meter over a smart meter and discussed the overall cost increase customers face after the installation of smart meters.

19. Donna Nedelk testified she is a West Penn Power customer and has been for thirty years. Ms. Nedelk testified about her strong opposition to the proposed base rate increase and brought six articles to support her opposition. She testified about the FirstEnergy Ohio bribery scandal, and, in her opinion, FirstEnergy disqualified itself from a base rate increase because of that scandal. She noted the conspiracy defrauded customers of more than \$1.3 billion and exemplified prioritizing corporate greed over customers.

Ms. Nedelk noted FirstEnergy requests a base rate increase totaling \$16-\$21 a month while offering a one-time credit of \$4-\$6 for customers. She questioned the need for the proposed base rate increase now after FirstEnergy announced in 2023 it was awarded more than \$800 million to upgrade transmission lines in several states including Pennsylvania. Ms. Nedelk believes the proposed base rate increase money will be used to pay lawyers and settle outstanding claims against FirstEnergy and, therefore, she opposes the proposed base rate increase.

20. Jessica Janosek testified she is a West Penn Power customer and has been for at least twenty years. Ms. Janosek is disabled and on a fixed income. Since Ms. Janosek has neurological problems, her primary concern was she her need to opt-out of smart meter installation. She testified her electromagnetic sensitivity results in tinnitus (ringing in the ears), anxiety, and heart palpitations. She notes her home currently uses an analog meter, but installation of a smart meter would make her home unlivable for her and her family. She testified other states have opt-out options and does not understand why Pennsylvania does not. Specifically, Ms. Janosek testified she cannot bring her children to see their grandparents' home because a smart meter was installed at the grandparents' home.

On July 16, 2024, the first day of telephonic public input hearings convened, which generated Transcript pages 452 to 565. The following individuals testified or appeared:

21. Becky Boyle appeared on behalf of Senator Linday Williams (representative of the 38th district) and read the Senator's statement in opposition to the proposed rate increase. Senator Williams' statement expressed the difficulty consumers would face under this base rate increase, which would result in a monthly bill increase of over 10%. She contended that West Penn Power customers especially will struggle

because their residential customer charge will more than double, to a 54.57% increase. Senator Williams noted families, neighbors, and friends are struggling to make ends meet while FE's corporate profits soar. She noted she learned at a United Way legislative briefing that the primary concerns the hotline receives concern housing insecurity, which concern is closely followed by requests for utility payment assistance. Senator Williams expressed an additional struggle for residents in Allegheny County, which has one of the oldest housing resources in the nation, is that most of the homes need significant repairs to remain habitable. Since the repairs are expensive, the repairs are often not made which results in homes using more energy and increasing the utility bills. Senator Williams noted this summer's higher temperatures, which extremes will further strain resources for families that try to keep their homes cool and safe. She noted a significant amount of the rate increase will be used for EV infrastructure, but ultimately the rate increase will impact those residents who cannot sustain their basic cost of utilities already.

22. Matthew Griffith testified he is a retired, residential Met-Ed rate district customer and has been a customer for thirty-five years. He learned of the public input hearing from an article in the Lancaster local newspaper. Mr. Griffith explained he opposes the base rate increase because of the declining quality of service he receives at his home. He testified thirty-five years ago, he rarely experienced an outage but in the last several years, Mr. Griffith has experienced one to two outages every month for no apparent reason (i.e., outages due to thunderstorms or bad weather). Mr. Griffith testified when there is an outage, he goes on the Met-Ed mobile application to determine when the outage will be fixed. He noted he does try to contact the company directly, but he has been unsuccessful because he cannot get ahold of a customer service representative. He testified that usually the application indicates the outage will be fixed within three hours, but more often the outage occurs for about 6-8 hours.

This inaccurate information is problematic for Mr. Griffith because he and his wife are continuous positive airway pressure (CPAP) users at night. This machine must be plugged in overnight to help users sleep. When there is an outage, it causes the CPAP machines to turn off, waking up Mr. Griffith and his wife. They are unable to fall back asleep until the outage is fixed because of their reliance on the CPAP machine to have a restful night's sleep. Mr. Griffith testified he has a generator to help in these situations but emphasized the lack of quality in FE's customer service. He testified about his concern that top company executives will benefit from the rate increase, rather than using the money to make maintenance improvements such as locating crews closer so outages can be solved sooner and benefit residential customers.

23. Reverend Jack Miller testified he is a resident of Bedford, PA and receives service from Penelec rate district to his home since 2018. He learned of the public input hearing from a notice printed in the Bedford Gazette. Reverend Miller testified on behalf of the Bedford Presbyterian Church (Church), where he is a minister. He testified the Church has two buildings, both of which receive service from Penelec.

Reverend Miller testified about the Church's mission work, which includes financial contributions to members of the community for their bills such as electric, rent, or groceries, and the Church often partners with the Salvation Army, St. Vincent DePaul Chapter, and In One Accord to accomplish their common mission goals. He testified there has been an unprecedented spike in requests for assistance, specifically for electric bills from Penelec. Reverend Miller explained the Church budgeted \$11,000 in 2024 to aid the community, however the Church recently decided to budget thousands of dollars more to provide financial aid to members of the community. Reverend Miller testified since January of 2024, the Church has donated over \$3,500 to Penelec directly on behalf of the members of the community, the Church typically paying only \$100 in financial

assistance per person. He noted the Church sometimes will give up to \$250 for those people in tremendous need.

Reverend Miller estimated the total financial assistance provided in 2024 assisted about 25-35 members of the community, and the consortium of mission agencies have provided about \$14,000 to neighbors for their electric bills. Therefore, Reverend Miller asks the Commission to deny this proposed base rate increase. He testified Penelec will lose customers eventually because the Church and other organizations cannot keep up with the costs to help the community. He recommends that FE find other ways to solve their need to increase rates, such as reducing the salary of executives.

24. Ken Homer testified he is a retired residential customer of Penn Power rate district and has been a customer for about thirty years. Mr. Homer testified he heard of the public input hearing from the Sharon Herald newspaper. Mr. Homer testified about his opposition to the potential base rate increase. Mr. Homer suggests every single-family residence should be charged approximately the same cost for distribution and he believes the increase is not justified for the utility. For instance, he testified Penn Power will use helicopters to trim the vegetation, which practice Mr. Homer found to be unnecessary, and suggested the company cut back on these types of expenses.

25. Linda Hammond testified she is a residential customer of Met-Ed and has been for fourteen years. Ms. Hammond is a retired nurse but is currently a substitute teacher at a local career and technology school. Ms. Hammond received notice of the public input hearing from a flyer that came in the mail with her billing statement. She is opposed to the proposed base rate increase and testified she is appalled, offended and livid about it. She testified about the unfairness of the proposal to increase the base

rate by 9.2% for residential customers, 3.9% for commercial customers, and only 1/2% for industrial customers.

Ms. Hammond testified she found the CEO of FirstEnergy's salary online which is \$4,497,000. She suggested Met-Ed cut costs by discontinuing mass mailings of insurance programs for underground wiring maintenance to customers. Ms. Hammond testified about the unfairness as to the lack of notice to customers, as well as the unfairness for residential customers to bear the additional costs of the proposed base rate increase. She pleaded with the Commission to reject the proposed base rate increase and suggested approving a residential base rate increase of no more than 1.5%.

26. Richard Glover Jr. testified he agrees with prior testimonies in opposition to the proposed rate increase. Mr. Glover is a retired resident of St. Mary's, PA and has been a West Penn Power rate district customer for three years. He receives service at his home and learned about the public input hearing from the St. Mary's Daily Press. Mr. Glover testified he is concerned about the accountability, or lack thereof, for West Penn Power. He testified he tried to research online to find an itemized list of what the increased costs were going to be used for and could not find such a list.

He testified his home has solar panels, which he has been very happy with but noted his frustrations in the lack of customer service during the transition to solar panels. He explained the customer must email the company, because if they call there is at least a 45-minute wait to speak with a representative. Mr. Glover testified about the proposals concerning electric vehicles but noted no one provided him with any assistance when he purchased his electric vehicles.

27. Carla Fink is a disabled residential customer of Penelec rate district and has been for over twenty years. She learned about the public input hearing from the

Commission's Facebook page. Ms. Fink testified she is on a fixed income totaling \$960 a month, and she opposes the proposed base rate increase. She requested an investigation into Penelec's redlined tactics, where Penelec increases their prices in depressed areas. Ms. Fink testified her electric bill was \$220 a month (despite installing LED lightbulbs to lower costs), and the unaffordability of utility bills will force elderly and disabled people out of their homes. She noted her extreme frustration with the proposed base rate increase, but testified she believes the Commission will approve the request despite customer opposition. Ms. Fink testified about the housing crisis and rent crisis and emphasized her opposition to a proposed base rate increase because it is unaffordable for residential customers.

28. Kathleen Stayman is a resident of York, PA and has been a Met-Ed rate district customer for seven years. Ms. Stayman received notice of the public input hearing by a letter from Met-Ed. She believes the country is moving in a direction that prefers electric and is moving away from natural gas. She testified she opposes the proposed rate increase, and she claims the increase is unnecessary because rates are high enough already. Ms. Stayman noted her sister, who is disabled and needs continuous oxygen, has high rates. Ms. Stayman testified FirstEnergy needs to find other ways to cover costs other than placing the burden on the consumers' rates.

29. Jonathan Rogosky has been a Penelec rate district customer for twenty-three months and received notice of the public input hearing from the Beaver County Times. He opposes the rate increase because he finds it inappropriate and unnecessary given the inflation consumers experience daily.

On July 17, 2024, ALJ Katrina Dunderdale convened the second day of telephonic public input hearings at 1:00 P.M., and again at 6:00 P.M., however, no individuals appeared to testify on either telephonic public input hearing that day.

III. LEGAL STANDARDS

A. General Rate Increase Proceedings

At issue is the Company's request for a general base rate increase, which is governed by Section 1308(d) of the Code. Section 1308(d) of the Code provides the procedures for changing base rates, the time limitations for the suspension of the new rates, and the time limitations on the Commission's actions. 66 Pa.C.S. § 1308(d).

Section 1301(a) of the Code mandates that “[e]very rate made, demanded, or received by any public utility ... shall be just and reasonable, and in conformity with [the] regulations or orders of the [C]ommission.” 66 Pa.C.S. § 1301(a). 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) (*City of Lancaster*). There is no single way to arrive at just and reasonable rates, and “[t]he [Commission] has broad discretion in determining whether rates are reasonable” and “is vested with discretion to decide what factors it will consider in setting or evaluating a utility’s rates.” *Popowsky v. Pa. Pub. Util. Comm’n*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky II*).

The Commission is required to investigate all general rate increase filings. *Popowsky II*, 683 A.2d at 961. According to Section 315(a) of the Public Utility Code, the burden of proof to establish the justness and reasonableness of every element of a public utility’s rate increase request rests solely upon the public utility. 66 Pa.C.S. § 315(a). The evidence necessary to meet that burden must be substantial. *Lower Frederick Twp. v. Pa. Pub. Util. Comm’n.*, 409 A.2d at 505, 507 (Pa. Cmwlth. 1980).

In general rate increase proceedings, the burden of proof does not shift to parties challenging a requested rate increase. Rather, the utility's burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one, and that burden remains with the public utility throughout the course of the rate proceeding. There is no similar burden placed on parties to justify a proposed adjustment to the company's filing. *Berner v. Pa. Pub. Util. Comm'n*, 116 A.2d 738, 744 (Pa. 1955).

However, in proving that its proposed rates are just and reasonable, a public utility need not affirmatively defend every claim it has made in its filing, even those which no other party has questioned:

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, 153 (Pa. Cmwlth. 1990) (citation omitted); *see also Pa. Pub. Util. Comm'n v. Equitable Gas Co.*, 73 Pa.P.U.C. 310 (1990).

Section 523 of the Public Utility Code, 66 Pa.C.S. § 523, also requires the Commission to “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, a public utility is obligated to provide safe, adequate, and reasonable service. *Pa. Pub. Util. Comm'n v. Pa. Gas & Water Co.*, 61 Pa.P.U.C. 409, 415-16 (1986); *see also* 66 Pa.C.S. § 1501.

Additionally, rates must not be unduly discriminatory among customer groups. 66 Pa.C.S. § 1304. The Commission has discretion to determine reasonable classification of service of rates as may be justified “by a variety of considerations including the quantity of service used, the nature of the use, the time of the use, the pattern of the use, differences of conditions of service or cost of service.” *Zucker v. Pa. Pub. Util. Comm’n*, 402 A.2d 1377, 1382 (Pa. Cmwlth. 1979) (*Zucker*).

A utility’s cost of providing service guides the ratemaking process. *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006) (*Lloyd*). Additional important ratemaking concerns include quality of service, rate gradualism, and rate affordability. *Pa. Pub. Util. Comm’n v. Columbia Gas of Pa, Inc.*, R-2020-3018835 at 46-47 (Opinion and Order entered Feb. 19, 2021) (*Columbia 2021*) (citing 66 Pa.C.S. §§ 523, 526(a); *Lloyd* at 1020; *Pa. Pub. Util. Comm’n v. Twin Lakes Util., Inc.*, 2020 Pa.P.U.C. LEXIS 340, *46-54 (Order Mar. 26, 2020)).⁴

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. *Federal Power Comm’n v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944); *Bluefield Water Works Improvement Co. v. Pub. Service Comm’n*, 262 U.S. 679 (1923).

The Commission has broad discretion in determining whether rates are reasonable and to decide what factors it will consider in setting or evaluating a utility’s rates. *Pa. Publ. Util. Comm’n v. City of Bethlehem - Water Dep’t*, Docket No. R-2020-3020256 (Opinion and Order entered Apr. 15, 2021) (citing *Popowsky v. Pa. Pub. Util.*

⁴ Available at <https://www.puc.pa.gov/pcdocs/1693880.docx>.

Comm 'n, 683 A.2d 958 (Pa. Cmwlth. 1996)); *see also*, *Popowsky v. Pa. Pub. Util. Comm 'n*, 665 A.2d 808 (Pa. 1995).

B. Legal Standards for Settlements

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. In most cases, settlements lessen the time and expense that the parties must expend litigating a case, and at the same time, conserve precious administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401. The Commission has explained that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm 'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013). To accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm 'n v. Windstream Pa., LLC*, Docket No. M-2012-2227108 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm 'n v. C S Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

It is unusual for a proposed settlement in a general base rate case to be rejected. *Pa. Pub. Util. Comm 'n v. Cmty. Utils. of Pa., Inc. – Wastewater Div.*, Docket No. R-2021-3025206, at 10 (Opinion and Order entered Jan. 13, 2022) (reversing the presiding officer's order recommending rejection of a joint petition for settlement of a rate case concluding that on balance, the settlement is in the public interest and should be approved).

The Commission recognizes that settlements represent “a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the

public interest.” *Pa. Pub. Util. Comm’n v. C S Water and Sewer Assoc.*, 74 Pa. P.U.C. 767, 771 (1991).

C. Revenue Requirement

A utility’s revenue requirement represents the total revenue that the utility needs to collect through rates charged to the public to cover its cost of service. The formula to calculate the utility’s revenue requirement is:

$$RR = E + ROR(RB)$$

Where:

RR = Revenue Requirement

E = Expenses (including depreciation and taxes)

ROR = Overall Rate of Return

RB = Rate Base

A public utility is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Pa. Gas & Water Co. v. Pa. Pub. Util. Comm’n*, 341 A.2d 239 (Pa. Cmwlth. 1975) (citations omitted). In determining a fair rate of return, the Commission must adhere to the constitutional standards established by the United States Supreme Court in the seminal cases *Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923) (*Bluefield*), and *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) (*Hope Natural Gas*). In *Bluefield*, the 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 reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-93.

Twenty years later, in *Hope Natural Gas*, the Supreme Court reiterated:

From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

Hope Natural Gas, 320 U.S. at 603.

D. Black Box Settlements

The Settlement is a “black box” settlement. In a black box settlement, signatories agree to an overall revenue requirement without agreeing to each and every adjustment of the components of the rate filing. The Commission has historically permitted the use of black box settlements as a means of promoting settlement:

We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. 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.

Pa. Pub. Util. Comm'n v. Peoples TWP, LLC, Docket No. R-2013-2355886 at p. 28 (Opinion and Order entered Dec. 19, 2013) (*Peoples TWP*) (citations omitted).

In addition, the Commission has stated:

Despite the policy favoring settlements, the Commission does not simply rubber stamp settlements without further inquiry. In order to accept a settlement such as those proposed here, the Commission must determine that the proposed terms and conditions are in the public interest. The focus of the inquiry for determining whether a proposed settlement should be approved by the Commission is whether the proposed terms and conditions foster, promote and serve the public interest. Because the Joint Petitioners request the Commission enter an order in this proceeding approving the Partial Settlement without modification, they share the burden of proof to show that the terms and conditions of the Partial Settlement are in the public interest.

Pa. Pub. Util. Comm'n v. PECO Energy Co., Docket No. R-2018-3000164 at 15 (Opinion and Order entered Dec. 20, 2018).

A black box settlement does not specifically identify the resolution of every disputed issue. 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 former Chairman of the Commission has commented on black box settlements and stated that:

Determination 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.

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

IV. PROPOSED FINDINGS OF FACT

Attached to the Settlement as Appendix H was Joint Petitioners' Proposed Findings of Fact. While some edits have been made for formatting, the Proposed Findings of Fact are included here verbatim.

1. FirstEnergy Pennsylvania Electric Company ("FE PA" or the "Company") is a "public utility" and "electric distribution company" ("EDC") as those terms are defined in Sections 102 and 2803 of the Public Utility Code, 66 Pa. C.S. §§ 102, 2803, subject to the regulatory jurisdiction of the Pennsylvania Public Utility

Commission (“Commission”), and provides electric distribution, and default electric supply services to customers located in its certificated service territory.

2. FE PA consists of the Met-Ed, Penelec, Penn Power, West Penn and Pennsylvania State University (“PSU”) rate districts (individually a “Rate District” and in any combination the “Rate Districts”).

3. On January 1, 2024, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, the “Predecessor Companies”) merged into FE PA pursuant to the Commission’s Order at Docket Nos. A-2023-3038771, *et al* (“PA Consolidation”).

4. As part of the approvals received in the PA Consolidation, FE PA was certificated as a public utility and authorized to provide public utility service in the territories of the Predecessor Companies.

5. As a part of this approval, the tariffs of the Predecessor Companies were combined into a single tariff for FE PA.

6. FE PA currently provides electric distribution service under the same rates, terms, and conditions for service as the Predecessor Companies.

7. The single, combined tariff approved as part of the PA Consolidation established the Rate Districts, including one for each of the Predecessor Companies.

8. On April 2, 2024, FE PA filed Supplement No. 3 to FE PA’s Tariff Electric – Pa. P.U.C. No. 1 (“Supplement No. 3”), responses to filing requirements and

standard data requests, and supporting direct testimony and exhibits with the Commission (the “2024 Base Rate Case”).

9. In Supplement No. 3, FE PA sought a base rate increase, pursuant to 66 Pa.C.S. § 1308 of the Public Utility Code (“Code”), of approximately \$502 million annually across all “Rate Districts” based on data for a fully projected future test year ending December 31, 2025 (“FPFTY”). On a Rate District basis, FE PA proposed rates designed to increase annual distribution revenues as follows: Met-Ed Rate District - \$146 million, Penelec Rate District - \$132 million, Penn Power Rate District - \$55 million, and West Penn Rate District - \$169 million. Supplement No. 3 also contained non-substantive revisions to the language of certain Rules and Regulations, rate schedules and riders in the Company’s currently effective tariff, as summarized in FE PA Exhibit MSK-2. The filing was made in compliance with the Commission’s regulations and contained all supporting data and testimony required to be submitted in conjunction with a tariff change seeking a general rate increase.

10. On August 15, 2024, a telephonic evidentiary hearing was held. After discussing preliminary and procedural matters, providing an update on the status of ongoing settlement discussions, and receiving certain questions from the ALJs that FE PA was directed to answer, the hearing was recessed until 2:30 p.m. At the 2:30 p.m. hearing session, a further update regarding settlement discussions was provided. In addition, the procedure for the remainder of the scheduled hearings was established. The ALJs directed that the August 16, 2024 hearing date would be cancelled, and that hearings would reconvene on August 19, 2024, so that any cross-examination of witnesses could be conducted and so that FE PA could provide any testimony and/or exhibits responding to the ALJs’ directed questions. In addition, it was agreed that all pre-served testimony would be admitted into the record via written stipulation and verification.

11. On August 19, 2024, a Joint Stipulation for the admission of all pre-served testimony and exhibits was submitted.

12. Also on August 19, 2024, the parties reconvened for a further telephonic evidentiary hearing. Cross examination of two FE PA witnesses, one OCA witness, and IBEW Local 777's witness was conducted. In addition, FE PA witnesses Joanne Savage and Tracy Ashton provided supplemental testimony and exhibits responding to the ALJs' directed questions. FE PA Exhibits JMS-6, and Exhibits TMA-6 through TMA-10 were admitted into the record.

13. On August 21, 2024, the First Post-Hearing Order admitting evidence into the record was issued. The First Post-Hearing Order admitted all pre-served testimony and exhibits that were set forth in the Joint Stipulation into the record.

14. On August 22, 2024, the Second Post-Hearing Order was issued. The Second Post-Hearing Order clarified the First Post-Hearing Order.

15. Also on August 22, 2024, counsel for FE PA notified the ALJs via e-mail that a unanimous settlement of all issues had been reached.

16. The Settlement is supported by all active parties in this case: FE PA, the Bureau of Investigation and Enforcement ("I&E") of the Pennsylvania Public Utility Commission ("Commission"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Coalition for Affordable Utility Services and

Energy Efficiency in Pennsylvania (“CAUSE-PA”), the “Large User Groups”⁵, the International Brotherhood of Electric Workers Local 459 (“IBEW 459”), the Local Union 777 of the International Brotherhood of Electrical Workers, AFL-CIO (“IBEW Local 777”), the UWUA System Local 102 (“UWUA 102”), Walmart, Inc. (“Walmart”) and the Pennsylvania State University (“PSU”), collectively the “Joint Petitioners” or the “Parties”).

17. Several customers filed *pro se* formal complaints opposing the proposed rate increase, specifically: (1) Annette Martin, Docket No. C-2024-3048409; (2) Donald Ellenberger, Docket No. C-2024-3048783; (3) Connie Dunmyer, Docket No. C-2024-3049013; (4) Mark Bowers, Docket No. C-2024-3049014; (5) Amy Stutzman, Docket Nos. C-2024-3049016 and C-2024-3049017; (6) Hattie Coates, Docket No. C-2024-3049021; (7) John J. Dolan, Docket No. C-2024-3049128, (8) David R. VanNorman, Jr., Docket No. C-2024-3049599; (9) Roland Hoffman, Docket No. C-2024-3049608; (10) David Hoffman, Docket No. C-2024-3049661; (11) Judith A. Garofolo, Docket No. C-2024-3049665; (12) Elaine Kitts, Docket No. C-2024-3049679; (13) Ryan Gandelman, Docket No. C-2024-3049683; (14) Beth Gandelman, Docket No. C-2024-3049774; (15) Charles E. Schwering, Docket No. C-2024-3049805, (16) John Piccinic, Docket No. C-2024-3049957; (17) Henry Barzilay, Docket No. C-2024-3049999; (18) Stanley and Lois LaFuria, Docket No. C-2024-3050000; (19) Albert Dilworth, Docket No. C-2024-3050001; (20) Jackie Stoner, Docket No. C-2024-3050413; and (21) Carol Ann Eroh, Docket No. C-2024-3050849.

18. None of the *pro se* complainants have been active parties.

⁵ The Large User Groups are comprised of the Met-Ed Industrial Users Group (“MEIUG”), Penelec Industrial Customer Alliance (“PICA”), and West Penn Power Industrial Interveners (“WPPII”).

19. The Settlement reflects a carefully balanced compromise of the interests of all of the Joint Petitioners, who represent a broad array of residential, commercial, and low-income customer interests. It also considers the statutorily recognized interests of the union-represented “employees” of FE PA. 66 Pa.C.S. § 1501.

20. The Settlement was achieved only after a comprehensive investigation of FE PA’s proposals set forth in its 2024 Base Rate Case. In addition to formal and informal discovery, the active parties submitted several rounds of testimony, including the Company’s direct testimony, other parties’ direct testimony, rebuttal testimony, and surrebuttal testimony. In addition, FE PA presented supplemental testimony and exhibits in response to specific questions from the ALJs assigned to this matter. Further, the parties engaged in numerous settlement discussions and formal negotiations, which ultimately led to the Settlement.

21. The Joint Petitions agree that the Settlement is in the public interest. (Settlement ¶¶ 39, 74-77.)

22. Under the Settlement, FE PA will be permitted to increase annual distribution rate revenue by \$225.0 million, to become effective on January 1, 2025, for service rendered thereafter. (Settlement ¶ 41.)

23. The agreed upon revenue requirement is a “black box” settlement, under which the parties do not specifically identify or resolve all of the individual rate base, revenue, expenses, and rate of return issues. (Settlement ¶ 41.)

24. The overall electric distribution revenue increase provided for by the Settlement is broken down by each of FE PA’s Rate Districts as follows: Met-Ed Rate

District - \$39,600,000; Penelec Rate District - \$57,690,000; Penn Power Rate District - \$24,980,000; and West Penn Rate District - \$102,730,000. (Settlement ¶ 42.)

25. The overall distribution rate revenue increase of \$225.0 million is 44.8% of the proposed overall distribution revenue increase of approximately \$502 million requested in FE PA's 2024 Base Rate Case filing. (Settlement ¶ 41; FE PA St. No. 1, at p. 6.)

26. The Company claimed that its current rates do not provide it with a reasonable opportunity to earn a fair rate of return on its investments made to serve the public in the provision of safe and reliable electric distribution service. (FE PA St. No. 1, at p. 13-14.)

27. Absent rate relief, FE PA projected that, for the 12 months ending December 31, 2025, its operations would produce an overall return on rate base of just 3.45%, which equates to a return on common equity of only 2.49%. (FE PA St. No. 1, at p. 13-14.)

28. FE PA claimed that without its requested rate relief, the Company's returns would continue to decline, deny the Company an opportunity to earn a fair and reasonable rate of return, and jeopardize the Company's ability to attract the capital needed to make the system investments necessary to support and ensure continued system reliability, safety, and customer service performance. (FE PA St. No. 1, at p. 13-14.)

29. During the course of the proceeding, the differences between the parties' litigation positions regarding revenue requirement changed. In its rebuttal testimony, FE PA explained that its most recent data and updates supported an annual revenue increase of \$502.490 million. (FE PA St. No. 3-R, at pp. 3-6; FE PA Exhibit

PML-7).) In surrebuttal testimony, I&E updated its recommended overall revenue requirement increase to \$182.325 million, and the OCA updated its recommended revenue requirement increase of \$71.170 million. (I&E St. No. 1-SR at 3; OCA St. No. 1-SR at 3 and Exhibit DM-SR-1.)

30. Through negotiations, the Joint Petitioners were able to compromise their competing litigation positions and arrive at the Settlement increase. The Settlement revenue increase is less than FE PA's overall requested increase, and more than I&E's final litigation position.

31. The increase under the Settlement, on both an overall and Rate District-specific basis, is within the range proposed by the parties, is in the public interest, and should be adopted without modification.

32. FE PA relied upon a class cost of service study ("CCOSS") to allocate its proposed total revenue and costs to each of the retail customer classes. (FE PA St. No. 7, at pp. 4-19; FE PA Exhibit TSL-1.)

33. FE PA, I&E, OCA, OSBA, LUG, and PSU took differing positions on revenue allocation. (*See, e.g.*, FE PA St. No. 7, at pp. 9-19 and FE PA Exhibit TSL-1; I&E St. No. 3, at pp. 24-25; OCA St. No. 3, at pp. 24-37; OSBA St. No. 1, at pp. 7-14; LUG St. No. 1, at pp. 15-28; PSU St. No. 1, at pp. 4-8.)

34. Appendix B to the Settlement sets forth the proof of revenues, which reflects (a) the agreed-upon revenue allocation, (b) the maintenance without modification of existing monthly customer charges for residential customers in the Met-Ed, Penelec and Penn Power Rate Districts, and (c) the increase of the monthly customer charge in the West Penn Rate District to \$9.000 [sic] per month. (Settlement ¶¶ 43-44.)

35. Paragraph 45 of the Settlement resolves issues related to FE PA's rate design proposal with respect to FE PA's proposed streetlight conversion program.

36. FE PA had originally proposed to recover the costs of its streetlight conversion program through a regulatory asset, subject to true up. (FE PA St No. 6, at pp. 11-12.)

37. OCA recommended that the costs of the program be recovered instead through a separate tariff surcharge. (OCA St. No. 4, at pp. 42-43.)

38. The Settlement permits FE PA to establish a Rider to recover the costs of this program, allocate the costs among the customer classes, and ensure that the expenses associated with the program are removed from the overall annual electric base distribution revenue increase contemplated by the Settlement. (Settlement ¶ 44.)

39. The Settlement in this proceeding states that FE PA agrees it will not file another general base rate increase for any of its Rate Districts for new rates to be effective prior to January 1, 2027. (Settlement ¶ 46.)

40. The Settlement addresses when the Company will be permitted to charge the Distribution System Improvement Charge ("DSIC"). (Settlement ¶ 47.) Specifically, the Company will be eligible to include plant additions in the DSIC at the later of, (a) the end of the FPFTY, and (b) once the total FPFTY plant account balances exceed \$3,696,815,000 for the Met-Ed Rate District; \$4,029,557,000 for the Penelec Rate District; \$1,052,092,000 for the Penn Power Rate District; and \$3,760,467,000 for the West Penn Rate District.

41. The Settlement specifies, as required by the Commission, a mechanism for determining the return on equity to be used in future DSIC calculations. (Settlement ¶ 48.)

42. The Settlement also provides that the Company will submit an update to FE PA, Volume I, Ex. V-A-3, pp. 2-5 no later than May 1, 2025, which will include actual capital expenditures, plant additions, and retirements by month from January 1, 2024, through December 31, 2024. (Settlement ¶ 49.) An additional update for actuals from January 1, 2025, through December 31, 2025, shall be filed no later than May 1, 2026. (Settlement ¶ 49.)

43. The reporting requirements contemplated by Paragraph 49 of the Settlement were proposed by I&E. (I&E St. No. 3, at pp. 4-5.)

44. FE PA did not oppose these reporting requirements. (FE PA St. No. 4, at pp. 8-9.)

45. FE PA presented detailed depreciation studies on the Company's electric plant for the Historic Test Year ("HTY"), Future Test Year ("FTY"), and FPFTY. (See FE PA Exhibit Nos. JJS-1, JJS-4, JJS-7, and JJS-10 (HTY depreciation studies for each Rate District), FE PA Exhibit Nos. JJS-2, JJS-5, JJS-8, and JJS-11 (FTY depreciation studies for each Rate District), and FE PA Exhibit Nos. JJS-3, JJS-6, JJS-9, and JJS-12 (FPFTY depreciation studies for each Rate District).) The depreciation studies were sponsored by, and supported by the direct testimony of, FE PA witness Mr. John J. Spanos. (See FE PA St. No. 9.)

46. OCA presented testimony in opposition to FE PA's proposed depreciation rates and, in particular, FE PA's proposal to utilize the Equal Life Group

(“ELG”) method to calculate its depreciation rates instead of the Average Service Life (“ASL”) method. (OCA St. No. 3, at pp. 2-5, 24-25.)

47. Under the Settlement, FE PA’s proposal to change its depreciation methodology from the Average Service Life (“ASL”) method to the Equal Life Group (“ELG”) method is withdrawn. (Settlement ¶ 50.)

48. In its initial filing, FE PA proposed to implement a mechanism to normalize pension/other post-employment benefits (“OPEB”) expense (the “PON Mechanism”). (FE PA St. No. 4, at pp. 21-25.)

49. I&E and OCA opposed the implementation of the PON Mechanism. (I&E St. No. 4, at pp. 28-33; OCA St. No. 1SR, at pp. 19-20.)

50. Paragraph 51 of the Settlement provides that FE PA agrees to withdraw its proposal for implementation the PON Mechanism. (Settlement ¶ 51.)

51. In the initial filing FE PA proposed to continue to utilize its storm reserve accounts for storm costs and extraordinary storm costs that provide for regulatory treatment of ongoing storm damage costs, as established in the Rate Districts’ Joint Petition for Partial Settlement of Rate Investigation at Docket Nos. R-2014-24228745, et al. (FE PA St. No. 3, at pp. 24-25.)

52. I&E opposed the continued use of the storm reserve account (I&E St. No. 4, at pp. 37-40) and the Company’s claim for extraordinary storm deferrals (I&E St. No. 4, at pp. 42-44).

53. OCA recommended that any unamortized balance associated with the storm reserve and extraordinary storm deferrals be disallowed from rate base, and recommended several adjustments to FE PA's storm reserve balance and extraordinary storm deferrals expense. (OCA St. No. 1, at pp. 15-20.)

54. Paragraph 52 of the Settlement permits FE PA to amortize all known and measurable amounts for both extraordinary and non-extraordinary storm expense recorded through December 31, 2023, with no rate base or debt cost treatment for unamortized balances. (Settlement ¶ 52.) In addition, Paragraphs 53-54 of the Settlement establish the annual funding amounts for the storm reserve and cap the balance of the storm reserve between base rate cases at a specific amount. (Settlement ¶¶ 53-54.)

55. Due to the COVID-19 pandemic, FE PA incurred certain incremental expenses in excess of those embedded in rates since the issuance of the Commission's Emergency Order in *Public Utility Service Termination Moratorium Proclamation of Disaster Emergency-COVID-19*, Docket No. M-2020-3019244, ratified on March 26, 2020. FE PA incurred incremental uncollectibles accounts expenses and other extraordinary, non-recurring incremental COVID-19 related costs. (FE PA St. No. 3, at pp. 26-27.)

56. FE PA proposed to amortize the uncollectibles accounts expenses and other extraordinary, non-recurring incremental COVID-19 related costs over a three-year period. (FE PA St. No. 3, at p. 26; FE PA Exhibit No. PML-1, Adjustment IS-10.)

57. I&E proposed to disallow recovery of any unamortized balance of amortized COVID-19 costs from rate base, disallow recovery of costs related to late

payment charge waivers and reconnection fee waivers, and to amortize COVID-19 expenses over a 5-year period. (I&E St. No. 4, at pp. 46-48.)

58. OCA proposed to disallow recovery of any unamortized balance of amortized COVID-19 costs from rate base, and to amortize COVID-19 expenses over a 5.3-year period. (OCA St. No. 1, at pp. 21-23, 75.)

59. Paragraph 55 of the Settlement states that FE PA's revenue increase provided in this Settlement is reflective of the removal of COVID-19 deferral amounts incurred with respect to waived late payment charges and reconnection fees. (Settlement ¶ 55.) It also sets forth the amount of deferred COVID-19 costs that will be permitted to be amortized over five years, and provides that no unamortized balance related to these costs will be included in rate base. (Settlement ¶ 55.)

60. FE PA's initial filing also reflected the expected impact of the Commission's disposition of the complaint filed by Verizon against FE PA at Docket No. C-2020-3019345 into its FPPTY. (FE PA St. No. 1, at pp. 21-22.)

61. I&E and OCA opposed FE PA's proposal to amortize the costs incurred due to the Verizon complaint litigation, and to include any unamortized balance of those costs in rate base. (I&E St. No. 3, at pp. 6-11; OCA St. No. 1, at pp. 24-25, 77.)

62. Paragraph 56 of the Settlement reflects FE PA's withdrawal of its claim for rate base and expense treatment associated with its litigation against Verizon, but reserves FE PA's right to file a future petition for deferral treatment of these costs depending on the outcome of the pending appeals at 42 MAP 2024 and 43 MAP 2024, and any subsequent litigation. (Settlement ¶ 56.)

63. Prior to the 2024 Base Rate Case filing, FE PA performed reviews of certain non-operating or non-recoverable costs and identified certain costs that were recorded to utility operating accounts. (FE PA St. No. 1, at p. 19; FE PA St. No. 4, at pp. 37-39.)

64. As a result of these reviews, FE PA determined that approximately \$13.6 million (including interest) had been included in base rates and collected from customers. (FE PA St. No. 1, at p. 19-20; FE PA St. No. 4, at pp. 37-39.)

65. FE PA proposed to issue a one-time fixed bill credit to customers to refund these amounts, allocated to rate schedules on the basis of 2023 distribution revenue. (FE PA St. No. 1, at pp. 20-21.)

66. Paragraph 57 of the Settlement reflects FE PA's commitment to refund these amounts to customers, and provide an informational filing to the Commission and the Parties in this proceeding regarding these refunds.

67. Paragraphs 58-70 of the Settlement resolve all issues related to the Company's universal service programs and customer service issues that were raised in this proceeding.

68. Paragraph 58 address issues related to the Company's customer service and call center performance. This provision requires the Company to take certain actions related to customer service, including maintaining customer service performance across several business functions at levels consistent with its 5-year historical average and conducting routine audits of its call center performance. (Settlement ¶ 58.) This provision was important to OCA, CAUSE-PA and IBEW Local 777 in this proceeding in order to ensure customer service performance, and call center performance does not

deteriorate in the future. (OCA St. No. 6, at pp. 18-21; CAUSE-PA St. No. 1, at pp. 26-28.)

69. Paragraph 59 addresses issues related to the Pennsylvania Customer Assistance Program (“PCAP”). It requires that FE PA will review and adjust its PCAP rates based upon the new, applicable residential electric distribution base rates established in this proceeding to ensure all PCAP customers are receiving the most advantageous customer assistance program (“CAP”) rate available, and that the implementation of all changes in FE PA’s PCAP approved as part of FE PA’s Universal Service and Energy Conservation Plan (“USECP”) for 2024-2028 approved at Docket Nos. M-2022-3036532, et al. (Settlement ¶ 59.) This provision addresses certain issues raised by CAUSE-PA with respect to PCAP in this proceeding. (CAUSE-PA St. No. 1, at pp. 34-35.)

70. Paragraph 60 addresses issues related to FE PA’s Hardship Fund. It requires that FE PA: (a) will consult with its Universal Services Advisory Committee (“USAC”) to develop a plan to increase voluntary contributions to its Hardship Fund grant within nine months of the Commission’s entry of a final order in this proceeding; (b) will amend its seasonal parameters for the Hardship Fund so that, at a minimum, customers who qualify for a Hardship Fund grant may do so in any month of the year, provided funding is available; (c) will initiate the issuances of plain language notices to low-income customers alerting them of past due bill(s), and of the availability of assistance to help pay their bill; (d) will increase its annual shareholder hardship matching contribution for grant assistance to \$500,00 annually; (e) will make annual shareholder hardship contribution for grant assistance over routine funding levels in the amount of \$2,000,000 annually for a three-year period beginning in 2025; (f) will roll over unspent funds and added to the proceeding year’s budget; (g) will increase its maximum Hardship Fund grant to \$600.00; (h) will eliminate any prohibitions against

PCAP customers receiving a Hardship Fund grant within ninety days of a final Commission Order in this proceeding; (i) will implement certain data tracking for its outreach efforts to the Company's most vulnerable customers; (j) will use best efforts to measure geographic reach of all outreach efforts to ensure equitable distribution of efforts across all rate districts; and (k) will provide annual updates to its USAC regarding the aforementioned datapoints until the Company's next base rate case filing. (Settlement ¶ 60.) These provisions address certain issues raised by CAUSE-PA with respect to FE PA's Hardship Fund in this proceeding. (CAUSE-PA St. No 1, at pp. 36-44.)

71. Paragraph 61 addresses issues related to FE PA's Low Income Usage Reduction Program ("LIURP"). It requires that FE PA: (a) increase its annual LIURP budget by a percentage equal to any approved increase in residential base distribution rates in this proceeding allocated proportionally among FE PA's rate districts; (b) will continue to carryover any unspent LIURP funds from the previous program year and add them to the budget for the following year by rate district; and (c) will continue to proactively coordinate delivery of services with other local, state, and federal efficiency, weatherization, and home repair programs that can help remediate health, safety, and other home repair issues that prevent the installation of comprehensive efficiency measures and cannot be resolved through FE PA's health and safety budget alone. (Settlement ¶ 61.) These provisions address certain issues raised by CAUSE-PA with respect to FE PA's LIURP in this proceeding. (CAUSE-PA St. No 1, at pp. 45-51.)

72. Paragraph 62 addresses issues related to FE PA's Administration of its Universal Service Programs. Specifically, it requires that FE PA: (a) implement a process whereby it will leverage Low Income Home Energy Assistance Program ("LIHEAP") data from the Pennsylvania Department of Human Service ("DHS") to meaningfully improve enrollment and retention in the PCAP, simplify burdensome paperwork requirements, and reduce unnecessarily duplicative administrative costs; (b)

will, within six months of the Commission’s entry of a final order in this proceeding, petition the Commission for approval to implement automatic enrollment for LIHEAP recipients that have never previously been enrolled in either PCAP or CAP; and (c) implement a biennial audit process for monitoring and oversight of the Dollar Energy Fund’s (“DEF”) administration of programs within six months of the Commission’s entry of a final order in this proceeding. (Settlement ¶ 62.) These provisions address certain issues raised by CAUSE-PA with respect to FE PA’s Universal Service screening, enrollment, retention, and administration in this proceeding. (CAUSE-PA St. No 1, at pp. 51-60.)

73. Paragraph 63 addresses issues related to FE PA’s definition of Confirmed Low-Income Customers. Specifically, it requires that FE PA will, within six months of a final Commission order in this proceeding, convene a collaborative of its USAC to discuss its current definition of “confirmed low-income” customers with commitment to, within twelve months of a final Commission order in this proceeding, revise its definition of the same to clearly outline those criteria which would qualify for CLI definitions and the timeframe for which a CLI designation will be retained under the Company’s practices and procedures and consistent with 52 Pa. Code § 54.72. (Settlement ¶ 63.) This provision addresses certain issues raised by CAUSE-PA with respect to FE PA’s definition of “confirmed low-income” in this proceeding. (CAUSE-PA St. No 1, at pp. 8-12.)

74. Paragraph 64 addresses FE PA’s handling and analysis of customer complaints. Specifically, it requires that, within ninety days of the Commission’s final order in this proceeding, FE PA will develop internal protocols for a regular and proper root cause analysis (“RCA”) of its complaint trends, both for internal disputes and Commission Bureau of Consumer Services (“BCS”) informal complaints that document

infractions. (Settlement ¶ 64.) This provision was adopted in response to issues raised by the OCA. (OCA St. No. 6, at pp. 31-33.)

75. Paragraph 65 addresses FE PA’s practices, procedures, and notices with respect to interacting with customers. Specifically, Paragraph 65 requires that FE PA ensure that: (a) all language reflects accurate requirements as required by statute or regulation and consistent with Commission orders and formal policies, as well as FE PA’s tariffs; (b) FE PA’s field representatives and customer service center representatives are provided with clear and robust directions for how to communicate with limited English proficiency (“LEP”) customers; (c) all customers with income at or below 250% Federal Poverty Level (“FPL”) receive protection from termination for nonpayment during the Winter Moratorium as required by statute or regulation and consistent with Commission orders and formal policies; (d) all guidance regarding the identification of “confirmed low-income” customers to conform with the Commission’s regulations for electric distribution utilities, including as related to the waiver and/or refund of security deposits in such instances; (e) all guidance related to security deposits and the refund thereof; and (f) all customer notices and communications containing references related to medical certificate requirements to ensure they are compliant with all legal requirements. (Settlement ¶ 65.) These provisions address various issues raised by CAUSE-PA with respect to FE PA’s practices, procedures, and notices for residential customers. (CAUSE-PA St. No 1, at pp. 60-64.)

76. Paragraph 66 addresses the Company’s policies and procedures with respect to cash security deposits. Specifically, Paragraph 65 requires FE PA to amend its tariff to advise that: (a) the Company will not require an applicant or customer to provide a cash deposit when the customer provides information which demonstrates that he or she qualifies as CLI; (b) that any customer who has previously posted a cash security deposit, and who is subsequently newly found to be exempt from a deposit demand will be

refunded that deposit within thirty (30) days of identifying that customer as CLI; and (c) security deposit refunds issued for confirmed low income customers will be made directly to the customer, unless FE PA obtains informed consent to apply the security deposit to the customer's account balance; (Settlement ¶ 66.) These provisions address several issues raised by CAUSE-PA with respect to FE PA's current cash security deposit practices, policies and procedures. (CAUSE-PA St. No. 1, at pp. 67-68.)

77. Paragraph 68 addresses the Company's language access procedures when dealing with limited English proficiency ("LEP") customers. Specifically, this provisions requires FA PA to provide its field representatives with a card in English and Spanish that field representatives can share with customers to facilitate a response to questions to confirm whether there is a medical condition in the service location, whether a protection from abuse order or other court order with evidence of domestic violence is in effect, or, in winter months (December 1 to March 31), whether the household's income is at or below 250% FPL, thus triggering additional protections at the service location. (Settlement ¶ 68.) This provision was agreed to in order to addresses several issues raised by concerns expressed by CAUSE-PA with respect to FE's policies and procedures related to LEP customers. (CAUSE-PA St. No. 1, at pp. 63-64.)

78. Paragraph 69 addresses the Company's use or future use of speech analytics software, artificial intelligence, and similar technologies to assist with monitoring, or involving, universal service programs and other low-income customers. Specifically, Paragraph 69 requires FE PA to include a standing topic on its USAC meeting agenda through the filing of its next base rate case regarding the same, which IBEW Local 777 will receive. (Settlement ¶ 69.) This provision was adopted to address certain concerns voiced by the OCA. (OCA St. No. 5, at pp. 56-61.)

79. Paragraph 70 addresses the Company's practice and procedure with respect to reconnection fees for confirmed low income and PCAP customers. Specifically, it requires FE PA to allow Hardship Funds to be used for the purposes of payment of reconnection fees for all confirmed low-income customers, and that reconnection fees will not be required to be paid upfront by CAP participants in order for reconnection of services. (Settlement ¶ 70.) This provision was agreed to in order to address issues raised by CAUSE-PA and OCA. (CAUSE-PA St. No. 1, at pp. 68-71; OCA St. No. 5, at pp. 53-55.) Any associated tariff revisions pursuant to this paragraph will be completed within twelve months of the Commission's entry of a final order in this proceeding. (Settlement ¶ 70.)

80. FE PA's initial filing discussed the Company's capital investments and operations and maintenance ("O&M") expenses related to improving the Company's service reliability, including an enhanced vegetation management program. (FE PA St. No. 2, at pp. 10-13, 15, 18-21.)

81. I&E and OCA opposed the Company's proposed enhanced vegetation management program. (I&E St. No. 4, at pp. 50-51; *see also* OCA St. No. 7, at pp. 41-42.)

82. OCA also proposed that the Company's implement a number of initiatives and reporting requirements related to improving the Company's service reliability. (*See* OCA St. No. 7, at pp. 56-59.)

83. IBEW Local 777 supported the enhanced vegetation management program, but also made several recommendations regarding the FE PA's (and specifically the Met-Ed Rate District's) internal field hiring practices and attrition rates. (*See* IBEW-7, at pp. 7, 13-14.)

84. Paragraph 71 of the Settlement sets forth a number of commitments addressing FE PA's service reliability performance and operations. (Settlement ¶ 71.) Specifically, Paragraph 71 sets forth commitments by FE PA to increase internal field hires, complete a review of its distribution system for opportunities to introduce projects to selectively underground facilities, and improve its reliability performance with respect to System Average Interruption Duration Index ("SAIDI") and System Average Interruption Frequency Index ("SAIFI") in three years. (Settlement ¶ 71.)

85. Paragraph 72 of the Settlement resolves all issues related to FE PA's marketing and inclusion of non-basic service charges on residential customer bills. (Settlement ¶ 72.) OCA requested the terms contained in this Settlement provision in order to resolve the concerns it raised regarding FE PA's marketing and inclusion of non-basic service charges on residential customer bills. (OCA St. No. 4, at pp. 37-41.)

86. FE PA proposed to implement an Electric Vehicle ("EV") Pilot Program as a part of its initial filing. (FE PA St. No. 8, at pp. 13-17.)

87. I&E disagreed with the proposed EV Pilot Program expense claim, and recommended disallowance of the recovery of costs for the proposed EV dealership toolkit and EV residential rebates. (I&E St. No. 4, at pp. 53-55.)

88. OCA proposed to disallow EV Pilot Program costs for ratemaking purposes except for costs related to the EV education program. (OCA St. No. 1 at p. 58; OCA St. No. 6, at pp. 5-17.)

89. CAUSE-PA also raised several concerns with the EV Pilot Program, and recommended specific modifications to the program if it was approved. (CAUSE-PA St. No. 1, at pp. 74-77.)

90. Walmart also advanced specific recommendations related to the EV Pilot Program and the development of a rate structure for distribution customers interested in owning/operating direct current fast charging (“DCFC”) EV charging equipment. (Walmart St. No. 1, at pp. 16-20.)

91. Settlement Paragraph 73 states that for purposes of the Settlement, FE PA withdraws all elements of its EV Pilot. (Settlement ¶ 73.) However, it also provides that FE PA will initiate work with interested stakeholders, including Intervenor IBEW Local 777, to (i) develop a new EV distribution rate specifically for public-facing EV chargers, similar to PECO Energy Company’s EV-FC Rider, and (ii) seek Commission approval for such a rate in its next general base rate case. (Settlement ¶ 73.)

92. The Company and the Parties carefully considered the EV Pilot Program, and Paragraph 73 of the Settlement addresses the parties’ concerns regarding the EV Pilot Program proposed by FE PA.

V. TERMS AND CONDITIONS OF SETTLEMENT

The Joint Petitioners agreed to a black box settlement covering all issues that specified the base rate increase, the allocation of that revenue increase to the rate classes and monthly customer service charges. The Joint Petitioners are in full agreement that the Settlement is in the best interests of FirstEnergy and its customers.

A. Description and Terms of the Settlement

The Settlement consists of the 36-page Joint Petition containing the terms and conditions of the Settlement. In addition, there are 21 appendices attached to the Settlement. Appendix A to the Settlement sets out the pro forma tariff supplement, Electric – Pa. P.U.C. No. 1, to be filed after approval by the Commission. Appendix B to the Settlement sets out the proof of revenues for the four rate districts. Appendix C to the Settlement sets forth the present rates, the proposed rates and the effects of the Settlement on the various customer classes, in addition to showing the impacts on billing statements. Appendix D to the Settlement is the proposed distribution rates for each of the four rate districts for all rate classes, for the Test Year 12 Months Ended December 2025. Appendix E to the Settlement is the revenue allocation to each class for each rate district showing a net settlement increase of \$224,999,991. Appendix F to the Settlement is the LEDC Rider Rates for the Twelve Months Ending March 31, 2026, for each rate district. Appendix G is a list of abbreviations used in the Settlement. Appendix H is Proposed Findings of Fact. Appendix I is Proposed Conclusions of Law. Appendix J is Proposed Ordering Paragraphs. Appendices K through U to the Settlement are the statements in support of the Settlement by FirstEnergy, BIE, OCA, OSBA, CAUSE-PA, Large Industrial Users, PSU, Walmart, IBEW Local 777, IBEW Local 459 and UWUA Local 112, respectively.

The essential terms of the Settlement are contained in paragraph nos. 39 through and including 73 (on pages 10 through 27 of the Settlement), which provide, in verbatim:

A. General

39. The following terms of this Settlement reflect a carefully balanced compromise of the Joint Petitioners' positions on various issues. The Joint Petitioners agree that the Settlement is in the public interest.

40. The Joint Petitioners agree that FE PA’s electric distribution base rate increase filing should be approved, including those tariff changes included in and specifically identified in **Appendix A**, subject to the terms and conditions of this Settlement that are specified below.

B. Revenue Requirement

41. FE PA shall be permitted to submit a revised tariff supplement that is designed to produce an overall, annual electric distribution revenue increase of \$225.0 million, to become effective on January 1, 2025, for service rendered thereafter. The increase in annual distribution rate revenue is in lieu of the as-filed, overall increase of approximately \$502 million. The Settlement as to revenue requirement shall be a “black box” settlement, except for the items set forth below.

42. The overall electric distribution revenue increase is broken down by each of FE PA’s Rate Districts as follows:

- Met-Ed Rate District - \$39,600,000;
- Penelec Rate District - \$57,690,000;
- Penn Power Rate District - \$24,980,000; and
- West Penn Rate District - \$102,730,000.

C. Revenue Allocation and Rate Design

43. Revenue Allocation. For purposes of this Settlement, class revenue allocation will be based on the information provided as **Appendix E**.

44. Monthly Customer Charges. FE PA’s existing monthly customer charges for residential customers in the Met-Ed, Penelec and Penn Power Rate Districts will be maintained at the current amounts without modification. FE PA’s monthly customer charge for residential customers in the West Penn Rate District will be increased to \$9.00 per month.

45. Streetlighting: FE PA will create a Rider for its Streetlighting Conversion Program. The costs of this program will be allocated among the customer classes by Network System Peak Load (“NSPL”) and charged on a cents/kWh (cents per kilowatt hour) basis for Residential and Commercial customer classes, and on a dollars/kw (dollars per kilowatt) basis for Industrial customer classes. FE PA has removed the expense of this program from the overall annual electric distribution revenue increase contemplated by this Settlement. See **Appendix F** as a rate design example of the new LEDC Rider.

D. Rate Case Stayout

46. As a condition of this Settlement, FE PA agrees that it will not file another general base rate increase for any of its Rate Districts for new rates to be effective prior to January 1, 2027.

E. DSIC Reporting

47. DSIC Eligible Plant. As of the effective date of rates in this proceeding, FE PA will be eligible to include plant additions in the Distribution System Improvement Charge (“DSIC”) at the later of, (a) the end of the FPFTY, and (b) once the total FPFTY plant account balances exceed \$3,696,815,000 for the Met-Ed Rate District; \$4,029,557,000 for the Penelec Rate District; \$1,052,092,000 for the Penn Power Rate District; and \$3,760,467,000 for the West Penn Rate District. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.

48. DSIC Equity Return. For purposes of calculating its DSIC, FE PA shall use the equity return rate for electric utilities contained in the Commission’s most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1).

49. Test Year Plant Reporting. The Company shall submit an update to FE PA, Volume I, Ex. V-A-3, pp. 2-5 no later than May 1, 2025, which will include actual capital expenditures, plant additions, and retirements by month from January 1, 2024, through December 31, 2024. An additional update for actuals from January 1, 2025, through December 31, 2025, shall be filed no later than May 1, 2026. FE PA will further provide comparisons of its actual capital expenditures, plant additions, and retirements to its projections for these periods as a part of its next base rate case filing.

F. Accounting

50. Depreciation Rates. For purposes of this Settlement, FE PA’s proposal to change its depreciation methodology from the Average Service Life (“ASL”) method to the Equal Life Group (“ELG”) method is withdrawn.

51. Pension/OPEB. FE PA withdraws its proposal for implementation of the “PON Mechanism”. This Settlement restricts neither FE PA from proposing any of the pension and other post-employment benefits (“OPEB”) mechanisms and claims raised in this proceeding in its future base rate proceedings, nor any position that other parties may choose to take with respect to such proposals in the future.

52. Storm Expense. FE PA will amortize all known and measurable amounts for both extraordinary and non-extraordinary storm

expense recorded through December 31, 2023, with no rate base or debt cost treatment for unamortized balances, as follows:

a. The extraordinary storm balance starting on January 1, 2025, will be \$17,019,000 per year for five years, broken down among the Rate Districts as follows: Met-Ed Rate District - \$6,714,000; Penelec Rate District - \$1,635,000; Penn Power Rate District - \$3,990,000; and West Penn Rate District - \$4,679,000.

b. The storm reserve balance totaling \$189,488,000 as of December 31, 2023, starting January 1, 2025, will be \$18,950,000 per year for ten years, broken down among the Rate Districts as: Met-Ed Rate District - balance totaling \$88,886,000, or \$8,889,000 per year; Penelec Rate District - balance totaling \$41,279,000, or \$4,128,000 per year; Penn Power Rate District - balance totaling \$19,465,000, or \$1,947,000 per year; and West Penn Rate District - balance totaling \$39,858,000, or \$3,986,000 per year.

53. The annual funding for the storm reserve starting January 1, 2025 will be based on the five-year historical average of actual storm costs totaling \$52,802,000, broken down among the Rate Districts as follows: Met-Ed Rate District - \$25,319,000; Penelec Rate District - \$10,954,000; Penn Power Rate District - \$3,215,000; and West Penn Rate District - \$13,315,000.

54. The balance of the storm reserve between rate cases shall be capped at two times the annual funding for the storm reserve of \$52,802,000. This cap is in addition to (i) the remaining unamortized balances accumulated as of December 31, 2023, (ii) any storm reserve activity from 2024 and (iii) any extraordinary storm balances.

55. COVID-19 Cost Deferral. FE PA's revenue increase provided in this Settlement is reflective of the removal of COVID-19 deferral amounts incurred with respect to waived late payment charges and reconnection fees. The remaining deferred COVID-19 costs totaling \$21,453,000 will be amortized over five years starting on January 1, 2025 (*i.e.*, \$4,290,000 per year for five years) with no rate base treatment for the unamortized balance, broken down among the Rate Districts as follows: Met-Ed Rate District - \$749,000; Penelec Rate District - \$1,544,000; Penn Power Rate District - \$580,000; and West Penn Rate District - \$1,417,000.

56. Verizon Complaint. For purposes of this Settlement, FE PA withdraws its claim for rate base and expense treatment associated with its litigation against Verizon. (*See* FE PA Statement No. 1, at pp. 21-22; FE PA Exhibit PML-1, at p. 20 (Adjustment RB-5) and FE PA Exhibit PML-1, at p. 56 (Adjustment IS-10).) However, FE PA reserves the right to file a future petition for deferral treatment of these costs depending on the

outcome of the pending appeals at 42 MAP 2024 and 43 MAP 2024, and any subsequent litigation.

57. Refunds. FE PA agrees to refund customers \$13.6 million as a one-time fixed bill credit based on customer counts within thirty days of the Commission's entry of a final order in this proceeding. (*See* FE PA Statement No. 1, at pp. 19-21.) The \$13.6 million will be allocated to rate schedules on the basis of 2023 distribution revenues. The total amount was determined by applying a six percent compounded interest which, will continue to be calculated until the amount in the regulatory liability is fully refunded to customers. The refund amount is broken down by Rate District as follows: approximately \$4.4 million for the Met-Ed Rate District, approximately \$4.3 million for the Penelec Rate District, approximately \$1.2 million for the Penn Power Rate District, and approximately \$3.7 million for the West Penn Rate District. FE PA will submit an informational filing to the Commission and supply the same filing to all Parties in this proceeding reporting the actual refunds distributed to customers no more than thirty days after the completion of the refund distribution.

G. Customer Service and Universal Service Issues

58. Customer Service and Call Center Performance.

a. FE PA commits to continue maintaining its customer service performance for customer call center, reliability of service, billing, meter reading, and response to customer complaints and disputes at levels consistent with its 5-year historical average as reported to the Commission until the date of its next base rate case filing. To the extent that FE PA's performance does not meet this level, FE PA agrees to meet with the parties, including Intervenor IBEW Local 777, as requested to discuss those areas of challenge and its plans to improve service levels. FE PA agrees that its call center performance results for answering calls and abandonment rate will not deteriorate during the rate effective year and prior to its filing of its next base rate case.

b. FE PA will conduct and document routine audits of its call center performance. These audits will be performed annually and will focus on call taking performance and quality and compliance with Pennsylvania-specific policies and regulations. In addition, the Company will specifically document training provided to temporary contractors prior to handling Pennsylvania customer calls.

59. FirstEnergy Pennsylvania Customer Assistance Program (“PCAP”).

a. FE PA will review and adjust its PCAP rates based upon the new, applicable residential electric distribution base rates established in this proceeding to ensure all PCAP customers are receiving the most advantageous customer assistance program (“CAP”) rate available.

b. FE PA will implement all changes to FE PA’s PCAP to be approved as part of FE PA’s Universal Service and Energy Conservation Plan (“USECP”) for 2024-2028 approved at Docket Nos. M-2022-3036532, et al. by no later than the effective date of electric distribution base rates established in this proceeding.

60. Hardship Fund.

a. FE PA will consult with its Universal Services Advisory Committee (“USAC”) and develop a plan to increase voluntary contributions to its Hardship Fund grant within nine months of the Commission’s entry of a final order in this proceeding. Changes to be explored will include but will not be limited to solicitation of donations through e-billing and solicitation of voluntary contributions from FE PA’s larger commercial and industrial customers.

b. FE PA will amend its seasonal parameters for the Hardship Fund so that, at a minimum, customers whose electric service is off or who are at risk of termination can qualify for a Hardship Fund grant in any month of the year, provided funding is available and the applicant is otherwise eligible.

c. FE will initiate the issuance of plain language notices to low-income customers with a past due bill during the winter heating season to let them know that they have a past due bill and outline the assistance that is available to help pay their bill, including but not necessarily limited to Hardship Fund, CAP, and Low Income Home Energy Assistance Program (“LIHEAP”).

d. FE PA will increase its annual shareholder hardship matching contribution for grant assistance to \$500,000 annually.

e. FE PA will also make an annual shareholder hardship contribution for grant assistance over routine funding levels in the amount of \$2,000,000 annually for a three-year period beginning in 2025.

f. To the extent any unspent funds remain at the end of the program year, those funds will be rolled over and added to the available

budget for the following year. Excess hardship funds may be transferred amongst Rate Districts based upon need.

g. FE PA will increase its maximum Hardship Fund grant to \$600.00.

h. Within ninety days of the Commission's entry of a final order in this proceeding, FE PA will eliminate any prohibitions against PCAP customers receiving a hardship fund grant. FE PA will work with Dollar Energy Fund ("DEF") to update its internal and customer-facing materials to reflect this changed policy without delay.

i. FE PA will implement data tracking for its outreach efforts to the Company's most vulnerable customers, to include:

i. PCAP enrollment rates measured against the number of estimated low-income customers in each Rate District;

ii. Email/web outreach;

iii. Community outreach efforts, including the estimated number of participants and geographic location;

iv. Applications received; and

v. Participation in/hosting of assistance fairs, including the estimated number of participants and geographic location.

j. FE PA will use best efforts to measure the geographic reach of all outreach efforts to ensure equitable distribution of efforts across its rate districts based on relative need and poverty levels.

k. FE PA will provide annual updates to its USAC regarding these datapoints until its next base rate case filing.

61. Low Income Usage Reduction Program ("LIURP").

a. FE PA will increase its LIURP annual budget by a percentage equal to any approved increase in residential base distribution rates in this proceeding, allocated proportionally amongst FE PA's Rate Districts. If rollover amounts exceed \$1 million for any Rate District, FE PA will host a collaborative meeting within thirty days of the end of the program year with members of its USAC, interested parties to this proceeding, Commission Bureau of Consumer Services ("BCS") staff. At the collaborative, FE PA will identify the reasons for such an exceedance and will outline a plan for how FE PA intends to (i) fully expend the current budget and the carry-over amount, and (ii) prevent excessive carry-over in the new program year. All carry-over funds must be spent on LIURP-related services, but FE PA reserves the right to propose reallocation of rollover funding across Rate Districts based

on relative need. Following the collaborative contemplated by this subparagraph (a), FE PA will make a filing with the Commission at its current USECP Docket outlining its proposed plan and requesting staff action to approve the plan within sixty days. FE PA will serve a copy of this filing on all parties to this proceeding.

b. Subject to subparagraph (a) above, regarding the process for handling roll-over funds in excess of \$1 million, FE PA will continue to carryover any unspent LIURP funds from the previous program year and add them to the budget for the following year by rate district.

c. FE PA will continue to proactively coordinate delivery of services with other local, state, and federal efficiency, weatherization, and home repair programs that can help remediate health, safety, and other home repair issues that prevent the installation of comprehensive efficiency measures and cannot be resolved through FE PA's health and safety budget alone. In doing so, over the twelve months following the Commission's entry of a final order in this proceeding, FE PA will host a series of collaborative meetings with its USAC, as well as local weatherization and home repair program administrators across its service territory, to identify concrete ways to leverage and coordinate LIURP with home repair and weatherization programs.

62. Universal Service Administration.

a. Within ninety days of the Commission's entry of a final order in this proceeding, FE PA will implement a process whereby it will leverage LIHEAP data from the Pennsylvania Department of Human Service ("DHS") to meaningfully improve enrollment and retention in the PCAP, simplify burdensome paperwork requirements, and reduce unnecessarily duplicative administrative costs. FE PA will specifically leverage the LIHEAP data for the purposes of: (i) developing a seamless, concurrent, and immediate process to process PCAP enrollments without further application; (ii) auto recertification; and (iii) outreach to non-participants. Customers will be notified that LIHEAP data was used for the streamlined application or auto recertification, neither of which will require additional income documentation.

b. Within six months of the Commission's entry of a final order in this proceeding, the Company will petition the Commission for approval to implement automatic enrollment for LIHEAP recipients that have never previously been enrolled in either PCAP or CAP.

c. FE PA will implement a biennial audit process for monitoring and oversight of DEF's administration of programs within six months of the Commission's entry of a final order in this proceeding. A review of

the components to be audited will be reviewed with FE PA's USAC, where audit results will also be shared when available.

63. Confirmed Low-Income Customer Definition. Within six months of the Commission's entry of a final order in this proceeding, FE PA will convene a collaborative of its USAC to discuss its current definition of "confirmed low-income" ("CLI") customers with the commitment to, within twelve months of the Commission's entry of a final order in this proceeding, revise its definition to clearly outline those criteria which would qualify for CLI definitions and the timeframe for which a CLI designation will be retained under the Company's practices and procedures and consistent with 52 Pa. Code § 54.72.

64. Complaint Handling and Analysis. Within ninety days of the Commission's entry of a final order in this proceeding, FE PA will develop internal protocols for a regular and proper root cause analysis ("RCA") of its complaint trends, both for internal disputes and Commission Bureau of Consumer Services ("BCS") informal complaints that document infractions. This plan will require a written RCA, and report on findings, including identification of trends, evaluation, steps to reform or avoid repeated trends, and internal steps taken to take proper internal enforcement action where needed. Quarterly updates to include results will be provided to the statutory advocates (i.e., I&E, OCA and OSBA) and Intervenor IBEW Local 777 until the Company's next base rate filing.

65. Practices, Procedures and Notices. FE PA will undertake a review of all policies, procedures, and training materials for revision, where appropriate, to ensure that:

a. All language reflects accurate requirements as required by statute or regulation and consistent with Commission orders and formal policies, as well as FE PA's tariffs;

b. FE PA's field representatives and customer service center representatives are provided with clear and robust directions for how to communicate with limited English proficiency ("LEP") customers.

c. All customers with income at or below 250% Federal Poverty Level ("FPL") receive protection from termination for nonpayment during the Winter Moratorium as required by statute or regulation and consistent with Commission orders and formal policies;

d. All guidance regarding the identification of "confirmed low-income" customers to conform with the Commission's regulations for electric distribution utilities, including as related to the waiver and/or refund of security deposits in such instances;

e. All guidance related to security deposits and the refund thereof;

f. All customer notices and communications containing references related to medical certificate requirements to ensure they are compliant with all legal requirements. Specifically, as part of this review, FE PA will revise its termination notices, website, and other relevant customer communications to include (i) a link to access FE PA's electronic medical certificate submission form and the Commission's standard written medical certificate form; (ii) clear information about the length of a medical certificate and how a medical certificate can be renewed; and (iii) information about the payment requirements while protected by a medical certificate. Where termination notices or other written communications have spacing limitations, weblinks to additional information may be provided.

66. FirstEnergy will also amend its tariff regarding cash security deposits to advise that:

a. The Company will not require an applicant or customer to provide a cash deposit when the customer provides information which demonstrates that he or she qualifies as CLI.

b. That any customer who has previously posted a cash security deposit, and who is subsequently newly found to be exempt from a deposit demand will be refunded that deposit within thirty days of identifying that customer as CLI. Security deposit refunds issued for CLI customers will be made directly to the customer, unless FE PA obtains informed consent to apply the security deposit to the customer's account balance.

67. The reviews and any associated revisions contemplated by Paragraphs 65-66 above will be completed within twelve months of the Commission's entry of a final order in this proceeding and will be conducted in consultation with the BCS and FE PA's USAC.

68. Language Access. Beginning no later than March 1, 2025, FE PA will provide its field representatives with a card in English and Spanish that field representatives can share with customers to facilitate a response to questions to confirm whether there is a medical condition in the service location, whether a protection from abuse order or other court order with evidence of domestic violence is in effect, or, in winter months (December 1 to March 31), whether the household's income is at or below 250% FPL, thus triggering additional protections at the service location. These cards will be in plain language and will include

a phone number consumers can call for direct translation and interpreter services.

69. Analytic Technologies. FE PA will include a standing topic on its USAC meeting agendas through the filing of its next electric distribution base rate proceeding related to the possible development and use of speech analytics software, artificial intelligence, and other such technologies to assist with the monitoring of phone calls involving, or potentially involving, universal service programs and other low-income customers. Intervenor IBEW Local 777 shall also be forwarded the USAC meeting agendas and will be considered to be an interested party with respect to the discussions pertaining to Analytic Technologies.

70. Reconnection Fees. Within six months following the Commission's entry of a final order in this proceeding in this proceeding, FE PA will begin allowing Hardship Funds to be used for purposes of payment of reconnection fees for all CLI customers. For CAP participants seeking to reconnect service following an involuntary termination, reconnection fees will not be required to be paid upfront as a condition of reconnection and will be added to any remaining pre-program arrearages upon reenrollment in the program. Any associated tariff revisions pursuant to this paragraph will be completed within twelve months of the Commission's entry of a final order in this proceeding.

H. Additional Provisions

71. Reliability and Operations.

a. FE PA commits to increase its internal field hires such that it will replace the prior year's attrition level plus ten percent, on a Rate District basis further divided proportionally by local, beginning January 1, 2025 (for 2024 attrition) for a period of five years or until its next base rate proceeding, whichever happens first.

b. FE PA will complete a review of its distribution system for opportunities to introduce projects to selectively underground facilities by December 31, 2025. Upon completion of this review, FE PA agrees to propose modifications to its Long Term Infrastructure Improvement Plan filed at Docket No. P-2024-3050269 ("LTIIIP III") to incorporate select projects identified as opportunities where largest impacts can be delivered.

c. FE PA commits to a cumulative improvement in reliability that results in a reduction of the weighted average System Average Interruption Duration Index ("SAIDI") by 3.5% and System Average Interruption Frequency Index ("SAIFI") by 2.5% after three years

following the effective date of rates implementing the base electric distribution revenue increase provided for in this Settlement.

d. The improvements to SAIDI and SAIFI contemplated by subparagraph (c) above will be measured using actual year-ended December 31, 2027 performance results as compared to the three-year averages as published in the 2023 PUC Electric Reliability Report results, assuming similar weather for that three-year average time period.

e. Consistent with subparagraphs (c) and (d) above, FE will provide an annual report to the parties detailing its performance improvement data reflected in the same terms as will be measured for compliance, by no later than April 1 each year.

f. If year-end December 31, 2027 performance does not reflect at least 75% achievement of the reliability improvement goals set forth in subparagraph (c) above, the Company will convene a meeting of the Parties to this proceeding following its report due April 1, 2028, in order to (i) discuss the reasons why the reliability improvement goals have not been achieved, and (ii) outline its plan to ensure it remains on track to achieve the stated goals.

72. Non-Basic Services.

a. FE PA's web portal will identify that non-basic services and products are "non-basic", are not required to be purchased from FE PA, and that other companies offer these same services.

b. FE PA will educate customers who purchase HomeServe, or other non-basic services billed by the Company, about (i) the definition of non-basic service, (ii) the relationship between non-basic and basic services, and (iii) related customer protections. Educational materials shall be provided in plain language via marketing materials, FE PA's customer enrollment portal or other appropriate delivery channels best suited to ensure transparency, enhance customer comprehension and considering customer communication preferences.

c. FE PA will insert a "non-basic" services label on its customer bills prior to the listing of the products and services purchased by the customer.

d. The Company agrees to provide the proposed language changes/additions contemplated by subparagraphs (b)-(c) above to the Parties in this case for comment and discussion prior to implementing the contemplated changes/additions.

e. Settlement terms relating to HomeServe should not be interpreted as any party's agreement to or acceptance of the Company's provision of non-basic services or products. In any future proceeding, all parties expressly reserve the right to take any position they deem

appropriate as to the Company's use of HomeServe and/or the provision of non-basic products and services.

73. Electric Vehicle ("EV") Pilot.

For purposes of this Settlement, FE withdraws all elements of its EV Pilot. (See FE PA Statement No. 8, at pp. 13-17.) Within twelve months of the Commission's entry of a final order in this proceeding, FE PA will initiate work with interested stakeholders, including Intervenor IBEW Local 777, to (i) develop a new EV distribution rate specifically for public-facing EV chargers, similar to PECO Energy Company's EV-FC Rider, and (ii) seek Commission approval for such a rate in its next general base rate case.

B. Additional Settlement Provisions

In addition to the specific terms to which the parties have agreed to settle the rate proceeding, the parties agreed, in paragraphs 74 through 77 (on pages 27 and 28), that the Settlement is in the public interest. Those paragraphs provide, in verbatim:

74. Commission policy promotes settlements. See 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and, at the same time, conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. See *id.* § 69.401. To accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. PUC v. C.S. Water & Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

75. This Settlement was achieved by the Joint Petitioners after an extensive investigation of FE PA's filing, including extensive informal and formal discovery and the filing of substantial testimony by the active parties.

76. Approval of the Settlement without modification will reduce the time and expenses that the active parties and the Commission must expend on the proceedings.

77. The Joint Petitioners will further supplement the reasons that the Settlement is in the public interest in their Statements in Support. The Statements in Support are attached to this Settlement as **Appendices K through U**. In their respective Statements in Support, each Joint Petitioner

explains why, in its view, the Settlement is fair, just, and reasonable and reflects a reasonable compromise of the disputed issues in this proceeding.⁶

Further, there are certain general, miscellaneous terms which should be mentioned. Paragraphs 78 through 84 of the Settlement indicate various procedures and assumptions the parties agreed to including, but not limited to, establishing a procedure by which any party may withdraw from the Settlement and proceed to litigate this case, if the Commission modifies the Settlement; and asserts the Settlement does not constitute an admission against or prejudice to any position.

On the basis of these and other provisions of the Settlement, the parties request: (a) approval of the Settlement, to become effective on January 1, 2025; (b) FirstEnergy be permitted to file a tariff or tariff supplement containing the rates and rules in Appendix A⁷ to the Settlement; (c) the closing and termination of the rate investigation proceeding at Docket No. R-2024-3047068; (d) the dismissal of the complaints of OCA, and OSBA; and (e) the dismissal of all twenty-three (23) customer complaints associated with this proceeding.

C. Impact of Proposed and Settled Rates

In the initial filing, FirstEnergy requested a \$502 million increase to its annual operating revenues. However, as will be discussed herein, the Settlement provides for an additional increase of \$225 million in annual operating revenues. The

⁶ The Joint Petitioners note certain Joint Petitioners only participated on certain issues in this proceeding. Accordingly, some Statements in Support may be limited in the scope of issues addressed.

⁷ It is noted a typographical error appears on Page 61 of the proposed tariff supplement (Appendix A). On Page 61, the Customer Charge for Met-Ed is missing a decimal and appears as "\$1125." The correct Customer Charge should be "\$11.25."

impact of the proposed and settled rates, in comparison with current rates, is reflected below in the two charts, by each rate district.

Rate Impact to Average Residential Customer Using 1000 kWh:

Rate District	Current	Proposed	Settled
Met Ed	187.70	205.00 (+9.2%)	191.19 (+1.9%)
Penelec	200.96	220.75 (+9.8%)	209.29 (+4.1%)
Penn Power	180.59	201.88 (+11.8%)	188.72 (+4.5%)
West Penn	156.36	172.98 (+10.6%)	166.07 (+6.2%)

Revenue Increase:

	Proposed	Settled
Total Revenue Increase	503,848,000 (+34%)	225,000,000 (+15%)
Met Ed Rate District	146,332,000 (+31%)	39,600,000 (+1.9%)
Penelec Rate District	132,963,000 (+28%)	57,690,000 (+3.4%)
Penn Power Rate District	54,764,000 (+43%)	24,980,000 (+4.7%)
West Penn Rate District	169,789,000 (+40%)	102,730,000 (+4.6%)

VI. JOINT PETITIONERS' POSITIONS ON THE SETTLEMENT

The Settlement submitted in this case represents a complete and full settlement of all issues. In the Statements in Support, each Joint Petitioner explains why, in its view, the Settlement is fair, just, and reasonable and reflects a reasonable compromise of the disputed issues in this proceeding. Because some Joint Petitioners only participated on certain issues in this proceeding, some Statements in Support are limited in the scope of issues addressed.

A. FirstEnergy's Statement in Support

FE PA asserts the active parties engaged in extensive discovery about the issues including the revenue requirement, rate design, how to allocate the revenue requirement among the classes and numerous additional issues that arose from the Company's initial filing. FE PA points to the great reduction in the amount settled-upon versus the amount it originally proposed as further evidence that the Settlement reflects a fair and equitable result that benefits the public interest. The Company requests the Commission approve the Settlement without modification.

B. BIE's Statement in Support

BIE contends it analyzed the ratemaking claims contained in the base rate filing including operating and maintenance expenses, rate base, taxes, cash working capital, rate structure, capital structure, and the cost of equity and debt. BIE asserts the Settlement represents full compromise of all issues between the active parties and the results of the Settlement fall squarely within the range of possible outcomes if the matter had been fully litigated. BIE notes, when taken in its totality, that the Settlement is in the public interest and should be approved.

C. OCA's Statement in Support

OCA does not address all issues addressed by the Settlement in its Statement in Support, but OCA avers it does not oppose terms and conditions not expressly addressed in its Statement in Support. Overall, OCA asserts the Settlement reflects extensive work engaged in between the parties to find a resolution that benefits the public and contends the Commission should approve the Settlement without modification because it benefits the public interest.

D. OSBA's Statement in Support

OSBA supports the proposed Settlement and respectfully requests the ALJs and the Commission approve the Settlement in its entirety and without modification. OSBA contends the Settlement sets forth a comprehensive list of issues which were resolved through the negotiation process. Its statement outlines OSBA's specific reasons for concluding the Settlement is in the best interests of small business customers.

E. CAUSE-PA's Statement in Support

CAUSE-PA requests that the Settlement be approved without modification. It explains it intervened in this proceeding to ensure that FE PA's proposed rates and terms and conditions of service were designed and implemented in a manner which allows all consumers in FE PA's service territory to access safe and affordable electric services in their homes, regardless of income level. It avers it conducted a thorough investigation and created a detailed record in this case, presenting testimony from multiple expert witnesses. CAUSE-PA submits that the Settlement addresses a variety of issues raised by its witnesses, adopting many of the witnesses' recommendations. While not all of CAUSE-PA's positions were adopted, CAUSE-PA submits that the Settlement represents a fair and balanced approach to resolving the issues raised by the Joint Petitioners.

F. LUG's Statement in Support

LUG argues that approval of the proposed Settlement is in the best interests of the Parties involved, as the Settlement reflects a carefully balanced compromise of the Joint Petitioners' positions on various issues. Of particular interest to LUG, the

Settlement includes a reduced revenue increase, creates a Rider for its Streetlighting Conversion Program, the costs for which will be allocated among the customer classes, provides refunds to customers, and ensures a rate case stay-out. As such, LUG submits that the Settlement be approved without modification.

G. PSU's Statement in Support

PSU explains the Joint Petitioners were able to resolve their differences via settlement terms, which represent a reasonable compromise of the various parties' positions in a manner which is reasonable, in the public interest, and fully resolves all issues among them. Specifically, PSU notes that Settlement on revenue allocation and rate design was achieved after extensive scrutiny of FE PA's filing (and data in support thereof), analysis of voluminous interrogatories, the significant testimony and varying positions concerning rate allocation and rate design, and subsequent extensive negotiations representing give and take by the settling parties. PSU submits that the Settlement, taken as a whole, is in the public interest and should be approved by the Commission, without modification.

H. Walmart's Statement in Support

Walmart explains that the Settlement adequately addresses the issues it raised in this proceeding. Specifically, the Settlement results in a significant decrease in the overall revenue levels requested by FE PA, reducing the proposed \$502 million increase to \$225 million. Walmart explains that this reflects a significant compromise among the Joint Petitioners' litigation positions, which will provide the Company with adequate going-forward revenues while also substantially mitigating the upcoming changes to customers' rates. In addition, the Settlement provides for a base rate case

filing stay-out for FE PA's electric rates through January 1, 2027, which provides an additional benefit of temporary rate stability to the Company's customers.

Walmart noted it was particularly concerned with the terms of the Settlement pertaining to FE PA's EV Pilot Program. Walmart explains that the Settlement provides for a stakeholder process after the conclusion of this proceeding to explore development of a new EV distribution rate specifically for public-facing EV chargers for inclusion in the Company's next general distribution base rate case. Settlement ¶ 73. Walmart believes this Settlement term will contribute to advancing transportation electrification in the Commonwealth.

Walmart alleges the Settlement was achieved in this case as a result of negotiations and compromise by numerous parties with diverse interests. Accordingly, Walmart believes that the Settlement produces a result that is in the public interest, advances the Commission's policy favoring settlements, and should be approved without modification.

I. IBEW Local 777's Statement in Support

IBEW Local 777 explains it is the exclusive bargaining representative of ninety-seven customer service representatives employed by FE PA at its Call Center located in Reading, Pennsylvania. It explains it participated in this proceeding by serving discovery, submitting testimony, cross-examining witnesses, and engaging in settlement discussions. IBEW Local 777 argues that, based on its review of the complete Settlement, the Settlement is reasonable and in the public interest, and should be approved without modification.

J. IBEW Local 459's Statement in Support

IBEW Local 459 explains it represents the electrical linemen who work for FirstEnergy, and that it intervened in this case due to concerns over significant manpower shortages at FirstEnergy, and particularly the shortage of qualified linemen. IBEW Local 459 argues that the Settlement provides a firm commitment by FE PA to increase its internal workforce numbers over a five-year period or until the next rate case. IBEW Local 459 posits that this commitment serves the public interest because an increased workforce will help improve reliability, service and safety and will help reduce the company's reliance on expensive outside contractors. IBEW Local 459 supports the Settlement and requests it be approved without modification.

K. UWUA Local 102's Statement in Support

UWUA Local 102 supports the approval of the Settlement without modification. It explains that under the Settlement, FE PA commits to growing its internal workforce by replacing year over year attrition plus 10% each year for a period of five years or until the next rate proceeding. UWUA Local 102 argues that these terms will ensure safety for the public and FE PA employees, improve service reliability for FE PA customers, and reduce FE PA's costs spent on outside contractors, which will result in savings passed to FE PA's ratepayers.

VII. DISCUSSION

As a preliminary matter, we note the Settlement constitutes a significant reduction in the revenue increase originally requested by FirstEnergy. The agreed-upon revenue requirement is less than half of the originally requested revenue requirement in FirstEnergy's filing. This revenue requirement was reached without the added expense

of litigating the issue and without consuming the Commission's resources. This revenue increase will allow FirstEnergy the opportunity to earn a reasonably adequate return for its efforts and fund projects which may lead to future savings for customers through conservation efforts and universal service programs.

The parties engaged in vigorous and extensive discovery on the elements in the Settlement, with many opposing views but the parties were able to reach an agreement upon the issues. All signatories agree, or do not object, that the Settlement represents an outcome that is within the realm of possibility if the matter had proceeded to be fully litigated.

In addition, the parties agreed to a monthly customer charge which remains constant for three of the four Rate Districts. The fourth Rate District – West Penn – will see a smaller increase from \$7.40 to \$9.00 monthly. Furthermore, FirstEnergy agreed to refund \$13.6 million to customers for misallocated and mischaracterized expenses arising from lobbying under Operations and Management budget line.

The position of each Joint Petitioner is provided in more detail below.

A. General Rates

In this proceeding,⁸ the burden of proof lies squarely with FirstEnergy Pennsylvania Electric Company because it seeks permission to increase its base rate and to implement and/or alter programs. The burden to prove that every component of its rate

⁸ In this proceeding, FE PA was the only party to follow the briefing outline in all sections of the Statement in Support. However, while the other parties did not comply with the common briefing outline in all particulars, the presiding officers made a reasonable effort to provide the position submitted by each party from its Statement in Support where appropriate in this Recommended Decision.

request is just and reasonable does not shift to a statutory party or individual party which or who may have challenged the requested rate increase. Instead, FirstEnergy Pennsylvania Electric Company's burden is an affirmative one and remains with the public utility throughout the course of the rate proceeding. (*See*, 66 Pa.C.S. § 1501 (requiring a utility to have reasonable rules governing service.)) There is no similar burden placed on parties which challenge a proposed rate component. *See*, *Berner v. Pa. Pub. Util. Comm'n*, 116 A.2d 738, 744 (Pa. 1955).

Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301,1304. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. (66 Pa.C.S. § 315(a)); *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, 236 P.U.R.4th 218 (August 5, 2004). In addition, the public utility is burdened with the responsibility to demonstrate the rates sought are just and reasonable and justifying a public utility's rates includes every individual charge the public utility demands for any service offered, rendered, or furnished by the public utility, whether received directly or indirectly. *Metro. Edison Co. v. Pa. Pub. Util. Comm'n*, 22 A.3d 353 (Pa. Cmwlth. 2011).

B. Revenue Requirement (Settlement ¶¶ 41, 42)

1. FE PA

FirstEnergy notes it agreed to submit a revised tariff supplement designed to produce an annual electric distribution revenue increase of \$225.0 million, to become effective on January 1, 2025, for service rendered thereafter. This agreed-upon increase replaces its original request, as-filed, which exceeded \$502 million. Settlement ¶ 41. FE

notes that overall revenue increase is broken down by each of FE PA's rate districts as follows:

- (a) Met-Ed Rate District - \$39,600,000;
- (b) Penelec Rate District - \$57,690,000;
- (c) Penn Power Rate District - \$24,980,000; and
- (d) West Penn Rate District - \$102,730,000.

Settlement ¶ 42.

FE further notes this agreed-upon revenue requirement is a “black box” settlement, which has certain exceptions. Settlement ¶ 41. FE points out that, under a “black box” settlement, parties do not specifically identify or resolve individual issues on rate base, revenue, expenses, and rate of return but a “black box” can facilitate settlement agreements because it permits parties to retain their positions on important ratemaking issues in this proceeding at hand as well as for future proceedings. FE points out the Commission encourages black box settlements. *See, e.g., Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-2011-2267958, pp. 26-27 (Opinion and Order entered June 7, 2012); *Pa. Pub. Util. Comm'n v. Peoples TWP LLC*, Docket No. R-2013-2355886, pp. 27-28 (Opinion and Order entered Dec. 19, 2013); Statement of Chairman Robert F. Powelson, Implementation of Act 11 of 2012, Docket No. M-2012-2293611 (Public Meeting, Aug. 2, 2012).

In addition, FE opines the “black box” settlement concept can result in more settlement agreements because parties are not forced to identify a specific return on equity or to outline rate base, revenue, expense and return amounts that are allowed or disallowed. As such, FE contends the parties are not required to abandon or reverse their position on certain issues—unless specified outside of the black box—which could impact their positions in later cases. In addition, FE contends a “black box” settlement does not require the ALJs to decide individual rate base, rule on revenue and expense

adjustments proposed by the parties or determine the return on equity as a prerequisite before ruling on the reasonableness of the proposed revenue increase under a settlement.

FE contends the current electric distribution base rates were established in 2017 and, since the last base rate cases were filed by its Predecessor Companies (i.e., Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company),⁹ FirstEnergy insists it has prudently and effectively managed costs despite significant shifts in the economy, such as significant increases in inflation, rising interest rates and growth in operating and capital costs. FE PA St. No. 1, at 6, 7, 8-11. FE PA argues it used the Distribution System Improvement Charge (DSIC) to recover timely its capital investments which were put into service through the Predecessor Companies' Commission-approved Long Term Infrastructure Improvement Plans (LTIIPs). Further, FE contends its parent company, FirstEnergy Corp., FE PA's parent company, took several steps to improve its balance sheet since the Predecessor Companies' last base rate case. FE PA St. No. 1, at 7; FE PA St. No. 11, at 3. FE asserts it invested \$900 million in electric distribution infrastructure since the last base rate case, to strengthen its system, resulting in decreased line and equipment failure. FE PA St. No. 1, at 7; FE PA St. No. 2, at 11-14.

FE contends many factors contribute to its request for an increased distribution rate, including the need to attract capital on reasonable terms, and the need to repair, replace, improve and modernize the distribution system. FE PA St. No. 1, at 8-11, 13. FE asserts the current rates do not provide a reasonable opportunity to earn a fair rate of return on its investments. FE PA St. No. 1, at 13. FE PA projected that its operations at the current distribution rates would produce an overall return on rate base of

⁹ On January 1, 2024, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company merged into FE PA pursuant to the Commission's Order at Docket Nos. A-2023-3038771, et al ("PA Consolidation").

just 3.45%, which equates to a return on equity (ROE) of only 2.49%, for the twelve months ending December 31, 2025. FE PA St. No. 1, at 13. FE argues those returns are inadequate based upon the Company's applicable financial analyses and the risks confronted by the Company. FE PA St. No. 1, at 13; *see also* FE PA St. No. 10. FE argues those returns will continue to decline and deny the Company an opportunity to earn a fair and reasonable rate of return, will risk undermining Company's ability to attract the needed capital to make the necessary system investments and ensure continued system reliability, safety, and customer service performance – unless the increase is approved. FE PA St. No. 1, at 13.

FirstEnergy notes testimony on the overall revenue requirement came from I&E, OCA and the Company. After noting the parties' positions and arguments, FirstEnergy points out the Commission's principles for assessing if a settlement benefits the public interest, as stated in *Pennsylvania Public Utility Commission v. Aqua Pennsylvania, Inc.*, Docket Nos. R-209-2132019, et al., 2010 Pa. PUC LEXIS 1808, at *22-24 (Opinion and Order entered June 16, 2010):

The purpose of this investigation is to establish rates for Aqua customers which are "just and reasonable" pursuant to Section 1301 of the Public Utility Code (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 Co. v. Pennsylvania Pub. Util. Comm'n*, 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) 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.

Pa. Pub. Util. Comm'n v. Aqua Pa., Inc., Docket Nos. R-209-2132019 at 17-18 (Opinion and Order entered June 16, 2010).

FE also notes the Supreme Court of Pennsylvania's holding in *Pennsylvania Public Utility Commission v. Pennsylvania Gas and Water Co.*, 424 A.2d 1213, 1219 (Pa. 1980):

the power to fix "just and reasonable" rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that the term "just and reasonable" was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both.

FirstEnergy contends the Commission is not required to adhere to a defined formula or methodology to determine “just and reasonable” utility rates. *See Duquesne Light Co v. Barasch*, 488 U.S. 299, 315-16 (1989) (quoting *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944)) (stating “the Commission was not bound to the use of any single formula or combination of formulae in determining rates”). FE asserts one way the Commission can identify if a base rate outcome is within an acceptable range of reasonableness for rates is through the settlement process. FE contends parties with differing interests can evaluate and scrutinize the evidence alleged to support a rate request through a settlement process and based upon robust discussions and negotiations, agree to a reasonable overall result.

FirstEnergy argues the revenue requirement provided herein is reasonable, in the public interest and should be approved because FE provided substantial evidence to justify its proposed revenue requirement increase. *See generally* FE PA St. Nos. 1, 2, 3, 10, 11, 1-R, 3-R, and 10-R. FE notes the Joint Petitioners reached a compromise within a range of competing litigation positions, in addition to agreeing to other provisions that must be considered in assessing its reasonableness and the public interest. A number of provisions address specific accounting measures that impact how the annual revenue requirement increase was achieved, plus agreeing to a base rate case stay-out provision and other provisions impacting the Company’s service and operations, according to FirstEnergy. Furthermore, FE contends the proposed annual \$225.0 million settlement increase falls within the range of the parties’ overall revenue requirement proposals.

In conclusion, FE contends the increase proposed in the Settlement is just and reasonable, is in the public interest, and is supported by substantial evidence. Accordingly, FE contends the Commission should approve the overall, annual “black

box” \$225.0 million revenue requirement increase and the Rate District-specific breakdowns provided for in the Settlement without modification.

2. I&E

I&E notes the Joint Petitioners agree the terms regarding the overall base rate revenue increase reflect a carefully balanced “black box” compromise of all interests from the active parties. I&E points out all Joint Petitioners agreed to an overall revenue requirement increase of \$225,000,000 which is broken down by rate district as follows: Met-Ed \$39,600,000; Penelec \$57,690,000; Penn Power \$24,980,000; and West Penn \$102,730,000. I&E asserts the parties reached this overall revenue requirement increase after extensive negotiations among the parties.

I&E asserts it submitted extensive testimony regarding I&E’s review of the overall revenue requirement for each of the FirstEnergy rate districts, applied a traditional revenue requirement formula used in base rate cases to complete its analysis and, having reviewed and accepted the Company’s existing claimed capital structure, I&E calculated the cost of common equity to be 9.91% with an overall rate of return recommendation of 7.44%. I&E St. No. 2-SR, pp. 36-37. Further, I&E contends it reviewed the Company’s claim for total amount of plant in service through the FPPTY and performed an analysis of the customer cost analyses provided by the Company to support its proposed customer charges. I&E St. No. 3, pp. 2-6; I&E St. No. 3-SR, pp. 2-3. I&E also points out it proposed its own recommendations regarding customer charges. *Id.*, pp. 20-24; *see also* I&E Exh. No. 3.

I&E argues its final recommended overall revenue requirement increase was \$182,325,000 total for all four rate districts combined, which when broken down by rate district, was distributed as follows: Met-Ed \$21,844,000; Penelec \$45,020,000; Penn

Power \$20,179,000; and West Penn \$95,282,000.

I&E contends it fully supports the negotiated level of overall base rate revenue increase as compared to FirstEnergy's original request. While the overall revenue requirement is a "black box" compromise, I&E asserts the overall Settlement revenue levels are reasonably within the levels advanced on the evidentiary record by I&E and reflect a full compromise of all revenue-related issues raised by the parties. I&E points out the Settlement does not reflect agreement upon individual issues because it is a black box settlement except for those issues specifically addressed within the Settlement. Therefore, in consideration of the extensive testimony presented by I&E and all of the parties to this proceeding, I&E fully supports the negotiated level of overall base rate revenue increase as a full and fair compromise that provides FirstEnergy, the Joint Petitioners, affected ratepayers, and the Commission with an amicable resolution of the overall revenue increase, all of which is in the public interest.

3. OCA

OCA notes the parties agreed on an authorized revenue increase of \$225.0 million, to become effective on or before January 1, 2025, for service rendered thereafter, instead of the as-filed, overall increase request of approximately \$502 million. OCA points out the revenue increase in the Settlement is 45% of the increase requested initially by the Company and this Settlement represents a "black box" approach to the revenue requirement including, among other things, cost of capital issues. OCA contends black box settlements avoid the need for protracted disputes over the merits of individual revenue requirement adjustments and avoid the need for a diverse group of stakeholders to attempt to reach a consensus on each disputed accounting and ratemaking issue, as policy and legal positions can differ. As such, OCA asserts the parties did not specify a dollar amount for each issue or adjustment, and OCA further contends that attempting to

reach an agreement regarding each adjustment would have prevented any likely settlement from being reached.

OCA notes it presented extensive testimony about cost of capital and technical analysis using the discounted cash flow (DCF) model with the capital asset pricing model (CAPM) used as a check on the DCF results, and OCA opined a ROE of 9.48 would have been reasonable for FirstEnergy and fair to its ratepayers. OCA St. 2 at 8. OCA explained how its experts adjusted the results of the technical analysis downward by 10 basis points to 9.38 to account for FirstEnergy's poor reliability metrics, used a 50/50 capital structure for ratemaking purposes and justified OCA's opinion that FirstEnergy's proposed ROE of 11.3 and its proposed capital structure of 53.81% equity and 46.19% debt were both well overstated and unsupported. OCA St. 2 at 8, 45-48. OCA also explained its expert's revenue requirement and, after making numerous adjustments to the Company's proposed rate base and proposed expenses, calculated the revenue requirement for each FirstEnergy rate district. OCA St. 1 at 5. However, after reviewing the Company's rebuttal testimony, and the rebuttal testimonies of the other parties, OCA noted it revised its proposed revenue increase for each FirstEnergy rate districts, as follows: Met-Ed - \$20,673,034, Penelec - \$18,775,834, Penn Power - \$7,735,675 and West Penn - \$23,985,592 for a cumulative total of approximately \$71.2 million. OCA St. 1SR at 3.

However, OCA points out the parties reached agreement that the cumulative revenue increase should be \$225 million with the individual increase for each rate district to be as follows: Met-Ed Rate District - \$39,600,000; Penelec Rate District - \$57,690,000; Penn Power Rate District - \$24,980,000; and West Penn Rate District - \$102,730,000. Settlement ¶¶ 41-42.

OCA contends the parties' efforts to arrive at a black box settlement number of \$225 million represents a significant reduction from the Company's as-filed revenue increase

of \$502 million and required serious compromises from all parties. OCA argues the \$225 million increase is supported by the evidence and is within a reasonable range of outcomes if this matter been fully litigated. As such, OCA submits this Settlement provision is reasonable and in the public interest.

4. OSBA

OSBA points out FirstEnergy originally requested a total increase in distribution revenues of \$502 million annually across all rate districts based on data for a fully projected future test year ending December 31, 2025. Settlement, p. 3, ¶ 14. However, OSBA notes, by contrast, the Settlement provides FE PA with an annual increase in electric operating revenues of \$225.0 million across all rate districts. Settlement, p. 10, ¶ 41-42. OSBA contends the significant reduction in the overall revenue increase provided by the Settlement will benefit all FE's consumers, including the Company's small business customers, especially at a time when all types of utility service are becoming more expensive, and the COVID-19 pandemic continues to impact customers.

5. CAUSE-PA

CAUSE-PA points out FE PA originally requested a general rate increase of approximately \$502 million, or an increase of 34%, over existing revenues across all FE PA Rate Districts based on data for a fully projected future test year ending December 31, 2025. On a Rate District basis, FE PA proposed rates allegedly designed to increase the following annual distribution revenues: Met-Ed Rate District - \$146 million (or by 31%); Penelec Rate District - \$132 million (or by 28%); Penn Power Rate District - \$55

million (or by 43%); and West Penn Rate District - \$169 million (or by 40%). Statement in Support at pp. 1-2.

CAUSE-PA contends the proposed rate increase, if approved, would have resulted in a substantial increase in basic living expenses and would fall especially hard on low-income households that already struggle profoundly to make ends meet. CAUSE-PA notes FE PA estimated that between approximately 20.99% and 28.97% of its residential customers are low income across its Rate Districts. CAUSE-PA St. 1 at 10: 14-17. FE PA's proposed rate increase would have caused a substantial increase in basic living expenses for low-income households who are already struggling to afford their monthly bills.

CAUSE-PA asserts the Settlement represents a substantial reduction from FE PA's initial proposed rate increase. CAUSE-PA notes FE PA will be permitted to increase its distribution rates to produce increased distribution operating revenue of \$225 million based upon the pro forma level of operations for the 12 months ended December 31, 2025, which broken down by rate district are as follows: Met-Ed - \$39,600,000; Penelec - \$57,690,000; Penn Power - \$24,980,000; and West Penn – \$102,730,000.

On balance, CAUSE-PA contends the significant reduction in overall rate increase provided for under the proposed Settlement – together with the critical enhancements to FE PA's universal service programs and policies and procedures affecting low-income customers – will help mitigate the negative effects of the rate increase on FE PA's low-income customers. FE PA's low-income customers already face significant energy burdens, as illustrated by CAUSE-PA Exhibit 1. *Id.* at 15: 3-9; CAUSE-PA Exhibit 1. As a result of this preexisting unaffordability, FE PA's low-income customers face disproportionately high rates of involuntary termination for nonpayment; higher arrearage levels; and higher rates of payment trouble compared to

residential customers as a whole. *Id.* at 15: 3-9; CAUSE-PA Exhibit 1. If FE PA's proposed rate increase were approved without modification, these high energy burdens would have increased an additional 1-2% for most households with income at or below the poverty level. *Id.* at 15: 3-9; CAUSE-PA Exhibit 1. If FE PA were permitted to increase its rates as initially proposed, low-income customers would experience even greater rates of payment troubles and involuntary terminations, ultimately increasing the risk of consequences to health and safety of low-income customers and their households. *Id.* at 16: 4-10. CAUSE-PA asserts the proposed Settlement includes several provisions specifically designed to provide enhanced protections for residential customers which will help to ease the acute financial hardship residential customers have experienced over recent years.

6. LUG

LUG asserts it agrees with the Settlement provisions that permit FE PA to submit a revised tariff supplement designed to produce an overall, annual electric distribution revenue increase of \$225 million, to become effective on January 1, 2025, in lieu of FE PA's originally filed request of \$502 million. LUG notes the Settlement provides FE PA with an increase that is approximately 45% of the original request, and resulted from a compromise amount the Joint Petitioners.

LUG points out that, among the four Rate Districts, the increase each Rate District will receive is: (1) the Met-Ed Rate District will see an increase that is 73% less than the original request; (2) the Penelec Rate District will see an increase that is 56% less than the original request and (3) the West Penn Rate District will see an increase that is 40% less than the original request. LUG asserts it support these provisions as being in the public interest because it represents a compromise among the Joint Petitioners, the expenses incurred by the Joint Petitioners and the Commission are less than if the matter

had been fully litigated, and no appeal should result which will eliminate further litigation expenses.

7. PSU

PSU did not provide a position in its Statement in Support on this issue.

8. Walmart

Walmart points out the Settlement provides for a significant decrease in the overall revenue levels from the original request, by reducing the original request from \$502 million to \$225 million. Walmart asserts this Settlement term reflects a significant compromise among the various parties, which Walmart believes will provide the Company with adequate going-forward revenues while also substantially mitigating the upcoming changes to all customers' rate.

9. IBEW Local 777

IBEW Local 777 took no position on these issues.

10. IBEW Local 459

IBEW Local 459 took no position on these issues.

11. UWUA Local 102

UWUA Local 102 took no position on these issues.

12. Discussion

The Joint Petitioners unanimously agree the settled-upon revenue requirement of \$225 million benefits the public interest, falls within the range of expected outcomes if the matter was resolved entirely through litigation and should be approved. The presiding officers acknowledge the settled-upon revenue requirement is approximately forty-five percent (45%) of the original request, and on its face, that sum appears to be an appropriate amount, given the concurrence from all eleven active participants and especially given the concurrence of the statutory advocates. However, given the presence of a black box settlement, it is impossible for the presiding officers to confirm if the revenue requirement is adequate to cover all reasonable expenses for the provision of electric distribution service across the four rate districts. Accordingly, the presiding officers rely heavily on the assertions of the advocates because, while the sum of \$225 million may be an appropriate amount, that sum is a large amount of money to be paid from the pockets of ratepayers. While the parties engaged in many efforts to make monthly bills payable from low-income customers, other customers must carry the burden of paying their individual monthly payments as well as cover the cost of universal service plans. *See Settlement* ¶¶ 59-61

C. Revenue Allocation and Rate Design (Settlement ¶¶ 43-45; Appendices E and F)

1. FE PA

a. Revenue Allocation

Concerning revenue allocation, FirstEnergy asserts it relied upon a class cost of service study (CCOSS) to allocate its proposed total revenue and costs to each of the retail customer classes. FE PA St. No. 7, at 4-19; FE PA Exhibit TSL-1. It notes,

however, I&E, OCA, OSBA, LUG, and PSU took differing positions. *See, e.g.*, FE PA St. No. 7, at 9-19; FE PA Exhibit TSL-1; I&E St. No. 3, at 24-25; OCA St. No. 3, at 24-37; OSBA St. No. 1, at 7-14; LUG St. No. 1, at 15-28; PSU St. No. 1, at 4-8. Despite the differing positions, FirstEnergy notes the Joint Petitioners reached a full settlement to allocate the revenue in a manner that moves all classes closer to the cost of service. Settlement ¶ 43; Appendix E.

FE PA opines the proposed revenue allocation is consistent with the Commonwealth Court's decision in *Lloyd*, and prior Appellate Court precedents regarding revenue allocation. In addition, in considering the *Lloyd* decision, FirstEnergy asserts the Commission should recognize *Lloyd* did not overturn prior judicial precedent regarding revenue allocation and the applicability of cost of service studies, because when allocating revenues to the rate classes, the Commission is not required to adopt a single cost of service study or strictly allocate revenues according to the study's results. FirstEnergy notes consistent statements were made by the Commonwealth Court in *Executone of Philadelphia, Inc. v. Pennsylvania Public Utility Commission*, 415 A.2d 445, 448 (Pa. Cmwlth. 1980), and in *Peoples Natural Gas Co. v. Pennsylvania Public Utility Commission*, 409 A.2d 446, 456 (Pa. Cmwlth. 1979).

FirstEnergy argues these cases demonstrate the Commission retains considerable discretion in designing rates, is not required to follow any particular cost of service study, and can consider other factors, including gradualism and extenuating economic circumstances, when designing just and reasonable rates, provided the cost of service is the primary guiding factor. FirstEnergy asserts the agreed-upon revenue allocation in the Settlement moves the allocation towards cost of service for all rate classes. FE PA submits the Settlement's proposed revenue allocation is fully consistent with the *Lloyd* decision and other relevant precedent regarding revenue allocation.

b. Rate Design

Concerning rate design, FirstEnergy contends its primary objective was to develop rate schedules which recover the overall cost of service, which were fair and equitable, and which moderate rate changes to address rate continuity concerns. FE PA St. No. 7, at 19-20. FirstEnergy argues that primary objective was how the Joint Petitioners reach the agreement that FE PA's existing monthly residential customer charges for the Met-Ed, Penelec and Penn Power Rate Districts should be maintained at current levels without modification, and the West Penn Rate District monthly residential customer charge should increase to \$9.00 per month. Settlement ¶ 44. In addition, FirstEnergy asserts the Settlement reflects the parties' agreement on how the proposed revenue requirement will be recovered through the fixed and volumetric charges applicable to each Rate District and each customer class as set forth in Appendix D. Settlement ¶ 44.

c. Monthly Customer Charges

FirstEnergy contends the parties reached a reasonable compromise of various positions and specifically agreed to the following customer charges proposed by the Company in settlement: (1) the Rate RS and GSV customer charges for every Rate District except West Penn Rate District will be maintained at current levels (i.e., \$11.25 for the Met-Ed¹⁰ and Penelec Rate Districts, and \$11.00 for the Penn Power Rate District) rather than the Company's proposal of \$14.50, and that the Rate RS and GSV customer charges in the West Penn Rate District will be increased to \$9.00 (instead of the initial proposal to increase to \$11.50); (2) the monthly customer charges for each of the

¹⁰ As noted in a prior footnote, a typographical error appears on Page 61 of the proposed tariff supplement (Appendix A), which incorrectly lists "\$1125" as the Customer Charge for Met-Ed on Page 61 instead of reflecting "\$11.25" as the correct Customer Charge.

remaining classes would be increased over their present levels, but would ultimately be set at an amount lower than the Company's initial proposal. *See* Settlement, Appendix D. In addition, FirstEnergy notes the parties agreed to modest increases to the demand and volumetric charges applicable to each class in each Rate District, which were ultimately lower than the Company's initially proposed increases to these charges. *See* Settlement, Appendix D.

d. Streetlighting Conversion Program

FirstEnergy further notes the Settlement provides for the implementation of a Rider for the Company's Streetlighting Conversion Program. Settlement ¶ 45; Appendix F. FE PA notes it agreed to OCA's recommendation – to recover the costs of the program through a separate tariff surcharge (OCA St. No. 4, at 42-43.) - instead of its original proposal to recover the costs through a regulatory asset, subject to true up. FE PA St No. 6, at 11-12. FE asserts the Settlement represents the parties' agreement to adopt OCA's recommendation, and the Settlement provides specific methods of calculation for Residential and Commercial customer classes, and Industrial customer classes. Settlement ¶ 45; Appendix F.

e. Conclusion

In conclusion, FE asserts the overall rate design reflects a gradual increase in rates over the course of the FPFTY, moves all customer classes toward the overall cost of service, and strikes a reasonable balance between the interests of customers and the Company. For these reasons, the revenue allocation and rate design are just, reasonable, and in the public interest and, therefore, should be approved without modification.

2. I&E

Initially, I&E notes the Joint Petitioners agreed to the following: (1) the class revenue allocation herein is based on information provided within Appendix E to the Settlement; (2) the existing monthly customer charges for all residential customers in three of the rate districts remain constant without modification; (3) the customer charges for residential customers in the West Penn Rate District will increase to \$9.00 per month; (4) FirstEnergy will create a Rider for the LEDC; (5) the costs for the LEDC Program would be allocated among the customer classes by NSPL and (6) FirstEnergy would remove the expense of the LEDC Program from the overall annual electric distribution revenue increase herein.

I&E notes the active parties engaged in extensive negotiations, served various written statements and exhibits upon the other parties and gave due consideration to the application of relative rate of return concepts and scale backs. I&E contends it fully supports the revenue allocation and rate design settlement terms as set forth in Appendices C, D and E attached to the Joint Petition as a full and fair compromise, the settlement terms are within a reasonable range (as compared to I&E's final recommendations) that will provide FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with regulatory certainty and results in an amicable resolution of the revenue allocation and rate design, all of which is in the public interest.

3. OCA

a. Revenue Allocation and Rate Design

Concerning revenue allocation and rate design, OCA notes the parties were able to settle the issue by arriving at reasonable increases for all customer classes and

points out that the exact revenue allocation for each rate district is presented in the Joint Petition at Appendix E. Settlement ¶ 43. OCA asserts the choice of a COSS and the resulting revenue allocation was a heavily debated issue but points out the Settlement herein resolves these issues for each rate district in a fair and reasonable manner for all rate classes and in a manner that is consistent with principles of cost causation and gradualism. Accordingly, OCA submits this provision is in the public interest and should be accepted.

b. Monthly Customer Charge

Concerning the residential customer charge, OCA notes the Company initially proposed to increase the customer charge for all residential customers in each of the four rate districts, as follows:

Table 18 – Comparison of Current and Proposed Residential Customer Charges			
Rate District	Current Customer Charge	Proposed Customer Charge	Percent Increase
Met-Ed	\$11.25	\$14.50	22.4%
Penelec	\$11.25	\$14.50	22.4%
Penn Power	\$11.00	\$14.50	31.8%
West Penn	\$7.44	\$11.50	54.6%

OCA St. 4 at 38.

OCA had contended that increases to the customer charge fall particularly hard on low-income customers resulting in bill affordability issues and increased customer charges provide a disincentive to conservation activities, because the larger fixed charge cannot be reduced through a reduction in usage and mutes the effect of energy efficiency measures. OCA St. 5 at 70-80. OCA had objected to the increase, arguing the customer charge should remain unchanged in all four rate districts because

increasing the fixed customer charge fails to send any actionable price signal to customers, as customers have a reduced incentive toward conservation activities and also have less control over their total bill even when usage is reduced. OCA St. 4 at 38-39.

OCA notes, however, the parties reached an agreement that the customer charges for Met-Ed, Penn Power and Penelec would remain unchanged, while the charges for West Penn customer would experience a reasonable increase, going from \$7.44 per month to \$9.00 per month. Settlement ¶ 44. OCA asserts this settlement provision is reasonable because FirstEnergy's initial proposal was not supported by the record and was inconsistent with the principle of gradualism. OCA contends the modest increase for West Penn provided for in the Settlement will bring that rate district closer to the other FirstEnergy EDCs and results from a broad compromise among the parties. OCA submits this provision is reasonable, in the public interest and should be accepted.

c. Streetlight Conversion Program

Concerning the Streetlight Conversion Program, OCA notes initially the Company proposed to replace 85,365 non-LED streetlights across its four rate districts at a rate of approximately 17,000 streetlight conversions per year beginning in 2025 and would operate the program for approximately five years. OCA St. 4 at 40. OCA also notes FirstEnergy initially proposed to recover the cost through a regulatory asset to be amortized at a rate of \$9,000,000 over five years, for a total cost of approximately \$46,702,559, and the expenses and costs would be monitored, trued up and applied in the next base rate case. OCA points out the Company's claim was that the conversion would benefit ratepayers by producing: (1) a reduction in kilowatt-hour consumption due to the greater efficiency of LED streetlights versus non-LED streetlights; (2) a reduction in

carbon dioxide due to lower kilowatt-hour consumption; and (3) a reduction in kW capacity required for FirstEnergy's winter peak. OCA St. 4 at 41.

OCA acknowledged it agreed with FirstEnergy – that there could be ratepayer benefits resulting from the conversion program – but expressed concerns about the Company's proposed cost recovery mechanism because the regulatory asset would start when new rates went into effect but might not align with when the Company actually incurred these costs, the regulatory asset would not be transparent to ratepayers as to the costs being collected, and the reduction in usage and subsequent reduction in energy bills would accrue only to the benefit of the streetlighting class.

OCA notes the parties exchanged numerous iterations of the surcharge mechanism, resulting in a settlement where the parties agreed to create the LEDC Rider, where the two thirds surcharge would be allocated to the non-streetlight classes on a NSPL basis. Settlement ¶ 45. The remaining one-third would be recovered from the streetlighting class. OCA points out one rate example of the LEDC Rider is attached to the Joint Petition in Appendix F. Overall, OCA submits the resolution of this issue is broadly consistent with OCA's recommendations during discovery in this proceeding and is designed to accomplish the same ends: to recover only the costs as costs are incurred and to assign those costs reasonably on the basis of those classes which will benefit.

Based on the foregoing reasons, and the compromise reached, OCA submits the resolution of this issue is in the public interest and should be approved.

4. OSBA

a. Revenue Allocation

OSBA points out FirstEnergy initially proposed a revenue allocation that would move class cost recovery ten percent (10%) of the way from its current status toward fully allocated costs. OSBA St. No. 1 at 9 (citing FE St. No. 7 at 12). However, OSBA noted that, although the company's proposed allocation moves in the direction of aligning revenues with allocated costs, a ten percent (10%) shift effectively perpetuates significant misalignment between the two measures and would reduce the subsidies from/to each rate class by ninety percent (90%) in about 175 years. OSBA St. No. 1 at 9, and fn. 3. OSBA contends the most important criterion for setting regulated utility rates is the cost incurred by the utility for providing the service.¹¹

OSBA asserts, for purposes of this Settlement, class revenue allocation will be based on the information provided in the Settlement's Appendix E. OSBA contends this allocation recognizes instances of cost over-recovery and under-recovery for certain rate classes under current rates and makes some progress toward cost-based rates across customer classes. As a result, OSBA concludes the revenue allocation provided through the Settlement produces a reasonable result and a meaningful benefit to small business customers.

¹¹ OSBA notes the Commonwealth Court of Pennsylvania affirmed this basic principle, referring to cost of service as the "polestar" criterion. *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

5. CAUSE-PA

CAUSE-PA notes it did not take a position on the allocation and streetlight conversion program issues but did take a position regarding FE PA's proposal to substantially increase the fixed customer charge across rate districts.

a. Monthly Customer Charges

CAUSE-PA points out FE PA's current monthly customer charges are, per Rate District: Met-Ed – \$11.25; Penelec – \$11.25; Penn Power – \$11.00; and West Penn – \$7.44. CAUSE-PA St. 1 at 28, Table 8. CAUSE-PA further notes FE PA proposed the following increases to its Customer Charge by rate district: \$14.50 for its Met-Ed, Penelec, and Penn Power Rate Districts, and to \$11.50 for the West Penn Power Rate District. CAUSE-PA St. 1 at 28, Table 8. CAUSE-PA points out these increases, if approved, would have increased the fixed charge component of residential rates from between 28.89% to 54.57%. CAUSE-PA St. 1 at 28: 8-10.

CAUSE-PA asserts FirstEnergy's initial proposal would undermine the ability of low-income customers to control costs through energy efficiency, conservation, and consumption reduction – as well as the regulatory goals of LIURP to help customers control their bills through usage reduction assistance. *Id.* at 28-29. CAUSE-PA notes the Commission's LIURP regulations explicitly provide that LIURP is intended to help low-income customers to reduce their bills and, in turn, to “decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs.” *Id.* at 29 quoting 52 Pa. Code § 58.1 (“The programs are intended to assist low-income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant

utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs.”).

CAUSE-PA notes the proposed Settlement provides for no change in the residential Customer Charges for the Met-Ed, Penelec and Penn Power Rate Districts, while the West Penn Residential Customer Charge will be increased from \$7.44 to \$9.00 per month. CAUSE-PA asserts the Settlement provisions at Paragraph 44 are reasonable and should be approved. CAUSE-PA contends requiring FE PA to maintain the current customer charges for the Met-Ed, Penelec, and Penn Power Rate Districts, while permitting FE PA to increase its customer charge to \$9 for its West Penn Rate District represents a sizable reduction to FE PA’s initial proposed customer charge. CAUSE-PA further asserts this proposed Settlement provision will help residential customers maintain a greater ability to control costs through usage reduction compared to FE PA’s initial proposal, which ability is particularly important for low-income customers who already struggle profoundly to pay for electric service and rely on the ability to offset high bills through conservation efforts. While CAUSE-PA acknowledges its recommendations related to the customer charges were not adopted in their entirety, CAUSE-PA asserts these provisions represent a balanced compromise of the various parties’ interests. For these reasons, CAUSE-PA asserts these provisions are just, reasonable, in the public interest, and should be approved without modification.

6. LUG

a. Revenue Allocation and Rate Design

LUG notes the class revenue allocation agreed to by the Joint Petitioners is outlined in Appendix E of the Settlement. LUG asserts the Settlement provides a just and reasonable means by which to allocate the resulting increase among the four Rate

Districts' customer classes in a manner that generally moves the customer classes closer to the cost to serve while also recognizing the need for gradualism and minimalization of rate shock. LUG states FE PA originally proposed to allocate total revenue and costs to each of the retail customer classes based upon a class Cost of Service Study, to which the various parties took differing positions on revenue allocation. LUG notes, however, the parties were able to achieve consensus, resulting in Appendix E to the Settlement. LUG points out that Appendix E takes into consideration the various litigation positions of the Joint Petitioners and achieves a just and reasonable increase for the various customer classes.

Further, LUG notes the agreed-upon revenue allocation addresses concerns raised regarding the proposed rate increases for Rate GP, TP and 46 on the rate schedules for the Met-Ed, Penelec and West Penn Rate Districts. LUG notes its members receive service under those three rate schedules. Specifically, LUG points out the following increases, by Rate District: in the Met-Ed Rate District, Rates GP and TP will increase by 8.2% and 8.3%, respectively; in the Penelec Rate District, Rates GP and TP will increase by approximately 12%; and for the West Penn Rate District, Rate GP/TP will increase by 25.7% and Rate 46 will increase by 25.5%.

b. Streetlight Conversion Program

LUG asserts the Settlement provides for a transparent collection of the costs associated with FE PA's proposed Streetlight Conversion Program through the use of a surcharge, while also ensuring a just and reasonable rate allocation and collection of these costs. LUG notes FE PA originally proposed to recover costs for this program through a regulatory asset subject to true-up. However, pursuant to the Settlement, FE

PA agrees to create a Rider for the program. LUG asserts it supports this change in collection to allow for greater transparency with respect to the costs of the program.

LUG contends it also supports allocating the cost of the Streetlight Conversion Program among the customer classes by NSPL and charged on a cents/kWh basis for Residential and Commercial customer classes and on a dollars/Kw basis for Industrial customer classes. LUG asserts it supports this provision because it ensures an appropriate cost allocation and collection of these costs. LUG also notes FE PA agrees, as part of the Settlement, to remove the expense of the Streetlight Conversion Program from the overall annual electric distribution revenue increase.

c. Conclusion

LUG asserts it supports these provisions as being in the public interest because it represents a compromise among the Joint Petitioners, the expenses incurred by the Joint Petitioners and the Commission are less than if the matter had been fully litigated, and no appeal should result which will eliminate further litigation expenses. LUG specifically supports the Settlement provisions as providing a reasonable resolution of revenue allocation.

7. PSU

a. Revenue Allocation

PSU notes the rate revenue increase to be distributed to the West Penn Rate District, of which PSI is a part, is \$102,730,000, pursuant to the Settlement. PSU points out revenue allocation in the Settlement resulted from a compromise between gradualism and achieving rates designed to provide the full cost of service for each rate class. PSU

contends FE PA's initial request for revenue allocation would have moved all classes 10% towards the system rate of return and would have result in some rate classes subsidizing other rate classes' costs. PSU St. 1 at 6. In contrast, PSU contends its recommended revenue allocation would have moved all customer classes towards the system rate of return, better aligns with cost causation principles and would not result in one rate class subsidizing another rate class's costs. PSU St. 1 at 7.

PSU contends that ultimately the allocation of a rate increase must be based on cost of service, which entails a collection of wide-ranging and subjective judgments. (*Lloyd; Pa. Pub. Util. Comm'n v. Pa. Power and Light Co.*, Docket Nos. R-842651, *et al.*, 1985 WL 1205434, at *84 (Opinion and Order entered Apr. 25, 1985.) PSU contends no party relied entirely on the unadulterated results of one specific cost of service study, but instead, while using a study or studies as a basis, the parties must take the study, makes adjustments and come to a conclusion which, in that party's judgment, is just and reasonable. PSU asserts the selection of the study, implementation and execution thereof, and "judgment" for adjustments, in large part, reflect the allocation that is most beneficial to the class of customers that each party represents. PSU asserts herein the Settlement presents a revenue allocation that is within the range of likely litigated outcomes in this proceeding, but also recognizes principles of gradualism. *See Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2022-3031211, *et al.*, 2022 WL 17717176, at *62 ("To the contrary, we approve the Parties' efforts at reaching a reasonable and just resolution of the allocation of revenues based upon their agreement that is within the range of possible outcomes argued by the Parties and supported by their respective experts' testimony.").

PSU notes that, under the Settlement, each rate district receives an increase that is below 1.5 times the system average increase, which is consistent with principles of gradualism. *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.* Docket Nos. R-2020-

3018835, *et al.*, 2021 WL 757073, at *138 (Opinion and Order entered Feb. 19, 2021) (“The record indicates that although there are no definitive rules for determining what kind of rate increase would violate the principles of gradualism, limiting the maximum average rate increase for any particular class to 1.5 to 2.0 times the system average increase is one common metric that has been used by experts in the Commonwealth.”). As such, PSU contends the rate allocation and design are within the range of litigated outcomes supported by the expert testimony of each party’s witnesses, is based upon substantial evidence, and is the result of compromise on varying opinions and judgments based on the wide range of ratemaking principles accepted by the Commission and set forth by the parties on record.

Accordingly, PSU asserts it is generally supportive of the agreed-upon revenue allocation.

8. Walmart

a. Revenue Allocation

Walmart notes the Settlement produces an allocation of revenues between the various rate classes that produces a fair and equitable resolution of this significant issue of disagreement among numerous parties. Walmart asserts the allocation does not reflect any specific, unjustified or discriminatory benefit to any single class of ratepayers, and while alternative allocations could have been achieved in concern with various parties’ proposal through further litigation, Walmart contends it is satisfied the Settlement will produce generally just and reasonable cost-based allocations for the limited time period until the Company’s next rate case filing.

9. IBEW Local 777

IBEW Local 777 took no position on these issues.

10. IBEW Local 459

IBEW Local 459 took no position on these issues.

11. UWUA Local 102

UWUA Local 102 took no position on these issues.

12. Discussion

The presiding officers agree the parties took pain to create an allocation of revenue and a rate design that would benefit the public interest. The parties also tried to benefit the various rate classes by allocating the revenue in a reasonable, fair and adequate manner and charging the appropriate rate for each rate district based on the costs of services while moderating any increase to avoid rate shock. It is notable the parties kept the increases to monthly customer charges to a minimum, only agreed to increase the monthly customer charge for one rate district (the West Penn Rate District) and limited the amount of the customer charge. The best determinant for reducing consumption among the customer base involves giving ratepayers control over a means by which the ratepayer can limit or reduce a monthly bill by reducing consumption. Customer service charges can eliminate the benefit of charging for volume of commodity only and fails to provide an incentive to reduce the monthly bill. Because of the efforts the parties made to reduce or eliminate any increase to the monthly customer charge, the

presiding officers agree with these provisions and recommends the Commission approve the Settlement as in the public interest.

D. Rate Case Stayout (Settlement ¶ 46)

1. FE PA

FE PA points out it agreed to not file another general base rate increase under 66 Pa.C.S. § 1308(d) for any Rate District which would request new rates to become effective prior to January 1, 2027. (Settlement ¶ 46.) FE asserts this distribution base rate stay-out provision will provide stability of base rates for at least two years.

2. I&E

I&E notes that, as a condition of the Settlement, FirstEnergy agrees to not file another general base rate increase for any of its Rate Districts for new rates to be effective prior to January 1, 2027, provided, however, that the foregoing shall not prevent FirstEnergy from filing a tariff or tariff supplement proposing a general increase in rates in compliance with Commission Orders or in response to fundamental changes in regulatory policies or federal tax policies significantly affecting FirstEnergy's rates. I&E points out that, in such a filing, all parties reserve their rights to challenge the basis for such a filing. I&E acknowledges it did not submit testimony regarding a rate case stay out and the rate case stay out was offered as a settlement term by another party. I&E notes other parties expressed concerns as to when FirstEnergy would file its next base rate case and FirstEnergy expressed concerns regarding stay outs in general and the Company's proposed plans to reduce outages. I&E asserts it shares the concerns raised by all of the parties.

I&E contends it supports the stay out provision as a full and fair compromise the Joint Petitioners wove into the consideration of other terms within the Settlement and argues the compromise provides FirstEnergy, the Joint Petitioners, affected ratepayers, and the Commission with an amicable resolution and regulatory certainty, all of which is in the public interest.

3. OCA

OCA notes the Settlement provides for a rate case stay-out provision, in that FirstEnergy agrees to not file another base rate case increase for any of its rate districts that would allow increased rates to go into effect any earlier than January 1, 2027. Settlement ¶ 46. OCA asserts this Settlement provision provides a measure of rate stability for the over 2 million FirstEnergy ratepayers, and this term could only be accomplished through a settlement of this case, is reasonable and is consistent with the public interest.

4. OSBA

OSBA notes FirstEnergy has agreed, as a condition of this Settlement, that it will not file another general base rate increase for any of its rate districts for new rates to be effective prior to January 1, 2027. Settlement, p. 11, ¶ 46. OSBA asserts this provision provides assurance to small business customers that the Company will not seek to increase rates for a significant period of time. OSBA contends this type of assurance – that electric rates will not increase for a set period of time – provides certainty and predictability, which in turn allows small businesses to better budget and forecast financial needs during the stay-out period.

5. CAUSE-PA

CAUSE-PA notes that, in Paragraph 46 of the proposed Settlement, FE PA agrees to not file another general base rate increase for any of its Rate Districts for new rates to be effective prior to January 1, 2027, unless in certain cases of Commission Orders or in response to fundamental changes in regulatory policies or federal tax policies significantly affecting FE PA's rates. In such a filing, all parties would reserve their rights to challenge the basis for such a filing.

CAUSE-PA notes it did not take a position related to the rate stay-out issues but contends it is nevertheless strongly supportive of the provisions contained in Paragraph 46 of the Settlement. CAUSE-PA asserts this provision will help protect FE PA's residential customers from bearing another rate increase prior to January 1, 2027, and is particularly important for low-income customers who already struggle to afford monthly bills, even before any rate increase is approved.

6. LUG

LUG asserts FE PA agrees in the Settlement not to file for another general base rate increase for any of its Rate Districts for new rates to be effective prior to January 1, 2027. LUG points out it supports this condition because it provides customers with two years of distribution rate stability.

7. PSU

PSU took no position on these issues.

8. Walmart

Walmart notes the Settlement provides for a base rate case filing stay-out for FE PA's electric rates through January 1, 2027, and Walmart asserts this provision provides an additional benefit of temporary rate stability to the Company's customers.

9. IBEW Local 777

IBEW Local 777 took no position on these issues.

10. IBEW Local 459

IBEW Local 459 took no position on these issues.

11. UWUA Local 102

UWUA Local 102 took no position on these issues.

12. Discussion

Stay-out provisions can provide customers with a level of confidence that the monthly bill will not change for time, except for increases to non-base rate related costs such as DSIC charges or charges added onto the monthly bill for services not

included in the revenue requirement. A two-year stay-out provision will allow ratepayers to know that the base rate will not change until 2027.

E. Distribution System Improvement Charge (DSIC) Reporting (Settlement ¶¶ 47-49)

1. FE PA

FE PA notes the Settlement provides for FE PA to be eligible to include plant additions in the DSIC at the later of, (a) the end of the FPFTY, and (b) once the total FPFTY plant account balances exceed \$3,696,815,000 for the Met-Ed Rate District; \$4,029,557,000 for the Penelec Rate District; \$1,052,092,000 for the Penn Power Rate District; and \$3,760,467,000 for the West Penn Rate District. Settlement ¶ 47. FE asserts the parties included this provision solely to calculate the DSIC, the agreement is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing (Settlement ¶ 47.), and fully complies with the requirements of 66 Pa.C.S. § 1358 and the Commission’s Model Tariff. These requirements establish the DSIC should be set to zero when the new base rates – which include the DSIC-eligible plant – become effective. FirstEnergy asserts this threshold provides it with a reasonable opportunity to recover capital costs incurred to repair, improve, or replace aging distribution infrastructure placed in service between base rate cases, which provision provides customers with enhanced electric service safety and reliability benefits. FE PA also notes this provision is similar to other settlement provisions the Commission has adopted in recent proceedings. *See, e.g., Pa. Pub. Util. Comm’n v. UGI Utils., Inc. – Elec. Div.*, Docket No. R-2022-3037368, et al. (Order entered Sept. 21, 2023); *Pa. Pub. Util. Comm’n, et al v. Nat’l Fuel Gas Dist. Corp.*, Docket No. R-2022-3035730, et al. (Order entered June 15, 2023); *Pa. Pub. Util. Comm’n v. Pennsylvania-American Water Co.*, Docket Nos. R-2020-3019369, et al. (Opinion and Order entered Feb. 25, 2021); *Pa. Pub. Util. Comm’n v. PECO Energy Co. – Elec. Div.*, Docket Nos. R-2018-3000164, et al. (Opinion and Order entered Dec. 20,

2018). For these reasons, FE PA submits this provision should be approved without modification.

FirstEnergy also notes the Settlement provides that FE PA shall use the equity return rate for electric utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities for purposes of calculating its DSIC. FE PA points out it also will update the equity return rate each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1). Settlement ¶ 48. FE PA asserts this Settlement provision benefits the public interest because it satisfies the Commission's request that parties to a rate case settlement identify a return on equity for DSIC computation purposes. *See, e.g., Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2015-2518438, p. 27 (Opinion and Order entered Oct. 14, 2016).

FirstEnergy further notes the Settlement provides for the Company to submit an update to FE PA, Volume I, Ex. V-A-3, pp. 2-5 no later than May 1, 2025, which update will include actual capital expenditures, plant additions, and retirements by month from January 1, 2024, through December 31, 2024. Settlement ¶ 49. An additional update for actuals from January 1, 2025, through December 31, 2025, shall be filed no later than May 1, 2026. Settlement ¶ 49. FE PA will further provide comparisons of its actual capital expenditures, plant additions, and retirements to its projections for these periods as a part of its next base rate case filing. Settlement ¶ 49. FE PA asserts these provisions will enable the parties and interested stakeholders to track the Company's actual capital expenditures, plant additions, and retirements for the FPFTY and evaluate to what extent the actual figures match the Company's projections in this case. These reporting requirements are also consistent with prior settlement

agreements that have been approved by the Commission. Accordingly, FirstEnergy contends the Commission should approve this Settlement provision without modification.

2. I&E

I&E notes the Joint Petitioners agree FirstEnergy will be eligible to include plant additions, as of the effective date of the rates herein, in the DSIC at the later of: (1) the end of the FPFTY, and (2) once the total FPFTY plant account balances exceed \$3,696,815,000 for the Met-Ed Rate District; \$4,029,557,000 for the Penelec Rate District; \$1,052,092,000 for the Penn Power Rate District; and \$3,760,467,000 for the West Penn Rate District. I&E asserts this settlement provision is included solely for the purpose of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing. Additionally, I&E points out the Joint Petitioners agree FirstEnergy shall use the equity return rate for electric utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities for the purpose of calculating its DSIC and shall update the equity return rate each quarter consistent with any changes to the equity return rate for electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1).

I&E notes the Settlement requires FirstEnergy to submit an update to FE PA, Volume I, Ex. V-A-3, pp. 2-5 no later than May 1, 2025, which update is to include actual capital expenditures, plant additions, and retirements by month from January 1, 2024, through December 31, 2024, in addition to filing an additional update no later than May 1, 2026 for actuals from January 1, 2025, through December 31, 2025. I&E notes FirstEnergy agrees to provide further comparisons of its actual capital expenditures, plant

additions, and retirements to its projections for these periods as a part of its next base rate case filing.

I&E contends its analysis of FirstEnergy's filing included a full review of FirstEnergy's claimed rate base and distribution plant which led I&E to make a recommendation regarding rate base reporting. I&E St. No. 3, pp. 2-6. I&E asserts there is value in determining how closely FirstEnergy's projected investments in future plant compare to the actual investments that are made by the end of the FTY and FPFTY. I&E reasoned it will help inform the Commission and the parties in the Company's future rate cases if there is a determination about the correlation between FirstEnergy's projected and actual results. I&E points out the Company accepted I&E's recommendation. I&E St. No. 3-SR, p. 2-3 (citing FE PA St. No. 4-R, p. 9.). Therefore, I&E fully supports the settled upon terms regarding rate base, DSIC, and the capital expenditure reporting as a full and fair compromise that provides FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with an amicable resolution and regulatory certainty which is in the public interest.

3. OCA

OCA took no position on these issues.

4. OSBA

OSBA took no position on these issues.

5. CAUSE-PA

CAUSE-PA took no position on these issues.

6. LUG

LUG took no position on these issues.

7. PSU

PSU took no position on these issues.

8. Walmart

Walmart took no position on these issues.

9. IBEW Local 777

IBEW Local 777 took no position on these issues.

10. IBEW Local 459

IBEW Local 459 took no position on these issues.

11. UWUA Local 102

UWUA Local 102 took no position on these issues.

12. Discussion

When a company files for a change to the base rate, the DSIC is reset to zero upon the effective date of the new rate. The parties recognize the DSIC-eligible costs normally included in a DSIC are to be folded into the new base rate and have agreed to when FE PA may resume including plant additions in the DSIC, after January 1, 2025 (the effective date of the new rates). That inclusion can happen when either the FPFTY ends or once the total FPFTY plant account balances exceed specified dollar amounts within each district. The signatories contend this Settlement provision permits FE PA to recover capital costs it incurs prior to the filing of the next base rate filing (which cannot happen until at least January 1, 2027) and this provision benefits the public interest because it enables FE PA to provide enhanced electric service safety and reliability benefits through the repair, improvement and replacement of existing aging distribution infrastructure. Due to FE PA's struggles with reliability of its infrastructure, it benefits the public interest for FE PA to continue to repair, improve and replace infrastructure which has reduced the reliability of the FE PA distribution system. For these reasons, the presiding officers recommend the Commission approve this provision.

F. Accounting (Settlement ¶¶ 50-57)

1. Depreciation Rates (Settlement ¶ 50)

a. FE PA

The Company notes it initially provided detailed depreciation studies on the electric plant for the Historic Test Year (HTY), Future Test Year (FTY), and FPFTY. *See* FE PA Exhibit Nos. JJS-1, JJS-4, JJS-7, and JJS-10 (HTY depreciation studies for each Rate District); FE PA Exhibit Nos. JJS-2, JJS-5, JJS-8, and JJS-11 (FTY

depreciation studies for each Rate District); FE PA Exhibit Nos. JJS-3, JJS-6, JJS-9, and JJS-12 (FPFTY depreciation studies for each Rate District).

FE PA explains that OCA presented testimony in opposition to FE PA's proposed depreciation rates, particularly FE PA's proposal to utilize the Equal Life Group (ELG) method to calculate its depreciation rates instead of the Average Service Life (ASL) method. OCA St. No. 3, at 2-5, 24-25.

Under the Settlement, FE PA is withdrawing its proposal to change its depreciation methodology from the ASL method to the ELG method. Settlement ¶ 50. FE PA explains that it continues to disagree with OCA about the appropriate depreciation method and, as such, the Settlement should not be construed as an agreement to the methodology. Rather, FE PA submits that its agreement to withdraw its proposal is a reasonable compromise of competing litigation positions and interests related to how FE PA calculates depreciation. FE PA Statement in Support, p. 17.

b. I&E

I&E explains it did not submit testimony regarding the Company's proposal to change its depreciation methodology from ASL to the ELG method. I&E notes, however, it shares the concerns raised by the other parties and it fully supports the Company's decision to withdraw its proposal. I&E argues this is a full and fair compromise that provides FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with an amicable resolution and regulatory certainty which is in the public interest. I&E Statement in Support, p. 16.

c. OCA

In the Company's initial filing, FirstEnergy presented a claim for annual depreciation based on the ELG depreciation procedure. FE Statement No. 9 at 4. FirstEnergy witness Spanos noted that while "for most plant accounts, the current claim for annual depreciation is based on the straight line method of depreciation, which has been used for almost 25 years, [h]owever, the depreciation procedure has been changed to the equal life group procedure. . . ." *Id.*

OCA opposed FirstEnergy's proposal for several reasons in the direct and surrebuttal testimonies of Mr. David J. Garrett, OCA St. 3 and OCA St. 3SR, respectively. First, the ASL procedure is used by analysts and adopted by regulators in the vast majority of jurisdictions and cases. OCA St. 3 at 8. Second, the Company's own currently-approved depreciation rates are based on the ASL procedure. *Id.* Third, the primary catalyst of FirstEnergy's proposed increase to depreciation expense is the proposed switch from the ASL procedure to the ELG procedure proposed by Company witness Mr. Spanos. *Id.*

OCA submits that the ELG procedure assigns more depreciation expense to customers that take service early in the asset's service life and reduces the expense to customers toward the end of the asset's service life and need to be adjusted every year in order for the ELG procedure to produce accurate depreciation rates. OCA St. 3 at 7; OCA St. 3SR at 4. OCA witness Garrett explains that the ELG procedure is "effectively a form of accelerated cost recovery for the utility." OCA St. 3 at 4-5. OCA maintains that the accelerated depreciation rates that occur under the ELG procedure would continue to burden consumers until FirstEnergy's next rate proceeding. *Id.* at 5.

In the Settlement, FirstEnergy ultimately withdrew its proposal to switch depreciation procedure, and the OCA submits this Settlement which keeps the ALG depreciation procedure intact is reasonable and in the public interest. OCA Statement in Support at 15; *see* Settlement ¶ 50. OCA reaffirms its testimonial position that the ALG depreciation procedure is the appropriate procedure to support just and reasonable rates for consumers. OCA Statement in Support at 15.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in related to this Settlement provision.

f. LUG

LUG does not specifically address this portion of the Settlement in its Statement in Support.

g. PSU

PSU does not specifically address this portion of the Settlement in its Statement in Support.

h. Walmart

Walmart does not specifically address this portion of the Settlement in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 does not specifically address this portion of the Settlement in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 does not specifically address this portion of the Settlement in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 does not specifically address this portion of the Settlement in its Statement in Support.

l. Discussion and Recommendation

Under the Settlement, FE PA is withdrawing its proposal to change its depreciation methodology from the ASL method to the ELG method. While FE PA and OCA continue to disagree as to the proper depreciation methodology, the Settlement keeps the ASL methodology in place, maintaining the status quo until a later time when the issue can be properly vetted. The Joint Petitions agree that this represents a

reasonable compromise of competing litigation positions and interests. As such, we recommend this settlement provision be approved as being in the public interest.

2. Pension/OPEB (Settlement ¶ 51)

a. FE PA

FE PA originally proposed to implement a mechanism to normalize pension/other post-employment benefits (OPEB) expense (the PON Mechanism). FE PA St. No. 4, at 21-25. FE PA explains that annual fluctuations in investment performance have become significant in the context of FE PA's income statement and overall financial performance. FE PA St. No. 4, at 21. FE PA avers that the volatility inherent in the pension/OPEB expense results in a risk that rates may not be representative of future costs or credits. *Id.* FE PA submits that the category of pension/OPEB is unique since it is driven by rates, asset returns, and employee mortality. *Id.* at 22. FE PA maintains that this presents a risk for customers that the level of expense embedded in rates may be too high, and a risk for the Company that the level of expense embedded in rates may be too low. *Id.* To address this risk, the Company proposed a PON Mechanism to moderate the impacts to its income statement from the impacts of the investment performance of pension/OPEB assets due to market fluctuations, which are outside of the Company's control. *Id.* FE PA further explained that the PON Mechanism also may moderate the impacts on customers' rates from market fluctuations as well. *Id.*

Paragraph 51 of the Settlement provides that FE PA agrees to withdraw proposal for implementation the PON Mechanism. Settlement ¶ 51. This provision addresses concerns and opposition raised by I&E and OCA with respect to the implementation of the proposed PON Mechanism in this proceeding. I&E St. No. 4, at 28-33; OCA St. No. 1SR, at 19-20. However, it leaves open the ability for FE PA to

propose other changes to its pension/OPEB claims and other recovery mechanisms in the future. FE PA believes that this Settlement provision constitutes a reasonable compromise of the parties' competing litigation positions. FE PA Statement in Support at 18.

b. I&E

I&E explains it submitted extensive testimony regarding the Company's OPEB proposals. I&E St. No. 4, pp. 18-33; I&E St. No. 4-R, pp. 2-6; I&E St. No. 4-SR, pp. 10-19. I&E notes its witness, Christine Wilson, disagreed with the Company's proposed switch in pension and OPEB methods for rate making purposes as the switch in methods overly complicates the determination of proper allowances for ratemaking and makes resulting future claim determinations subject to manipulation if any variables, including but not limited to the future period over which any future net gains or losses are amortized, are changed in the actuarial calculations. I&E St. No. 4, p. 18.

Further, regarding the PON Mechanism, I&E witness Wilson questioned the mechanisms intention to adjust for short term market trends when investments associated with pension and OPEB plans are more long-term in nature. *Id.*, pp. 28-29. Ms. Wilson offered that yearly cash contributions as determined by an actuary for the Company's pension would take into consideration yearly amounts necessary to address any potential future highs or lows in investments thus removing the need for a PON Mechanism. *Id.*, p. 29.

Finally, I&E witness Wilson noted that FirstEnergy has indicated that its pension plan has a funding ratio of approximately 102% and its OPEB plan funded ratio was 101% at the end of 2023 concluding, there is no cause for alarm. I&E St. No. 4, p. 27 (citing FE PA St. No. 4, p. 21).

In the Settlement, FirstEnergy agrees to withdraw its proposal for implementation of a mechanism to normalize OPEB expenses. I&E explains this Settlement restricts neither FirstEnergy from proposing any of the pension and/or OPEB mechanisms and claims raised in this proceeding in its future base rate proceedings, nor any position that other parties may choose to take with respect to such proposals in the future.

Therefore, I&E submits it fully supports the Company's agreement to withdraw its proposal for implementation of a mechanism to normalize pension/other post-employment benefits expense, because it is a full and fair compromise that provides FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with an amicable resolution and regulatory certainty which is in the public interest. I&E Statement in Support, p. 18.

c. OCA

In its initial filing, FirstEnergy proposed to utilize a PON mechanism to be paired with the Company's proposal to return to the "delayed recognition method" of recovering pension and OPEB expenses. The Company proposed the PON to address what it viewed as inherent volatility in pension and OPEB expenses brought about by factors outside its control, such as interest rates, asset returns and employee mortality. FE PA St. 4 at 21-22. The Company stated that this presents a risk for customers that the level of expense may be too high, and a risk for the Company that the level of expense included in rates may be too low. *Id.* The PON would moderate the effects on the Company's income statement from the impact of investment performance of pension and OPEB assets due to market fluctuations beyond the Company's control. *Id.*

OCA opposed implementation of the PON mechanism. OCA witness Mugrace agreed with I&E witness Wilson that FirstEnergy should maintain its existing method of pension and OPEB expense recovery based on a ten-year average of actual cash contributions rather than moving to the delayed recognition method. OCA St. 1-SR at 20. Further, Mr. Mugrace pointed out that if the cash contribution method is maintained, there would be no need to institute the PON mechanism. *Id.*

Under the Settlement, the PON proposal is withdrawn. Settlement ¶ 51. OCA explains that the Settlement preserves the right of the Company to propose any of the pension or OPEB terms raised in this proceeding in future base rate proceedings and the ability of other parties to respond to those proposals. Given its opposition to the PON mechanism, OCA submits that the Settlement term on this issue produces a reasonable result. OCA Statement in Support, p. 16.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in related to this Settlement provision.

f. LUG

LUG does not specifically address this portion of the Settlement in its Statement in Support.

g. PSU

PSU does not specifically address this portion of the Settlement in its Statement in Support.

h. Walmart

Walmart does not specifically address this portion of the Settlement in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 does not specifically address this portion of the Settlement in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 does not specifically address this portion of the Settlement in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 does not specifically address this portion of the Settlement in its Statement in Support.

1. Discussion and Recommendation

Paragraph 51 of the Settlement provides that FE PA agrees to withdraw proposal for implementation the PON Mechanism. Settlement ¶ 51. This provision addresses concerns and opposition raised by I&E and OCA with respect to the implementation of the proposed PON Mechanism in this proceeding. However, it also leaves open the ability for FE PA to propose other changes to its pension/OPEB claims and other recovery mechanisms in the future. The Settlement restricts neither FirstEnergy from proposing any of the pension and/or OPEB mechanisms and claims raised in this proceeding in its future base rate proceedings, nor any position that other parties may choose to take with respect to such proposals in the future.

This Settlement term reflects a reasonable resolution of the Joint Petitioners' litigation positions and provides regulatory clarity and certainty for the present time, while keeping the door open to future claims and recovery mechanisms.

3. Storm Expense (Settlement ¶¶ 52-54)

a. FE PA

In the initial filing, FE PA proposed to continue to utilize its storm reserve accounts for storm costs and extraordinary storm costs that provide for regulatory treatment of ongoing storm damage costs, as established in the Rate Districts' Joint Petition for Partial Settlement of Rate Investigation at Docket Nos. R-2014-24228742, et al. FE PA St. No. 3, at 24-25. As it did in the Predecessor Companies' last base rate case at Docket No. R-2016-2537349, et al., FE PA proposed to continue the recovery of storm damage costs, excluding expenses related to damage from extraordinary storm events, through the reserve accounts. However, FE PA also proposed "to adjust the storm

reserve revenue included in base rates to reflect: (1) the updated historical five-year average of actual storm expenses, as described in Adjustment IS-5; and (2) the additional amortization expense to recover the balance of the storm reserve.” FE PA St. No. 3, at 25; FE PA Exhibit No. PML-1, Adjustment IS-10.

I&E opposed the continued use of the storm reserve account, I&E St. No. 4, at 37-40, and the Company’s claim for extraordinary storm deferrals, I&E St. No. 4, at 42-44. OCA recommended that any unamortized balance associated with the storm reserve and extraordinary storm deferrals be disallowed from rate base, and recommended several adjustments to FE PA’s storm reserve balance and extraordinary storm deferrals expense. OCA St. No. 1, at 15-20.

In response, FE PA explained that due to the volatility of storms, the storm reserve account provides a mean to recover storm expenses while allowing the utility to earn an allowable rate of return. FE PA St. No. 12-R, at 42. FE PA further posited that, if it was not permitted to continue the use of the storm reserve accounts, it should be permitted to implement a rider mechanism that permits it to automatically recover the storm costs it incurs which are not otherwise recovered in base rates. FE PA St. No. 12-R, at 42. I&E and OCA both opposed this alternative proposal in their surrebuttal testimony. I&E St. No. 4, at 23-24; OCA St. No. 1SR, at 10 (explaining the “current recovery mechanism established by the Commission provides sufficient and reasonable recovery of storm costs.”).)

Paragraph 52 of the Settlement permits FE PA to amortize all known and measurable amounts for both extraordinary and non-extraordinary storm expense recorded through December 31, 2023, with no rate base or debt cost treatment for unamortized balances. Settlement ¶ 52.

This provision of the Settlement continues to permit FE PA to utilize the storm reserve accounts established in prior base rate case. In addition, Paragraphs 53-54 of the Settlement establish the annual funding amounts for the storm reserve and cap the balance of the storm reserve between base rate cases at a specific amount. Settlement ¶¶ 53-54. The funding amounts and caps on the balances of the storm reserve between base rate cases balances the interests of FE PA in ensuring timely recovery of storm damage costs, with I&E's and OCA's concerns regarding utilization of the storm reserve accounts to recover such costs. For these reasons, FE PA submits that these Settlement provisions are just and reasonable, in the public interest, and should be approved without modification.

b. I&E

I&E notes it submitted extensive testimony regarding FirstEnergy's storm expense including routine storm expense, storm reserve accounts, and extraordinary storm deferrals. I&E St. No. 4, pp. 33-44; I&E St. No. 4-SR, pp. 19-35. I&E recognizes that FirstEnergy has proffered an increased commitment to reliability and an emphasis on storm damage repairs and vegetation management. FE PA St. No. 1, pp. 7-9; *see also* FE PA St. No. 2, pp. 8-22. I&E further noted that the Company's storm expense fluctuates from year to year due to unpredictable weather conditions. I&E St. No. 4, p. 34. The Company's proposed five-year average, which I&E accepted, excludes extraordinary storms which ensures no double-recovery of those costs in rates. *Id.* (citing FE PA Exhibit PML-1, p. 41, Adjustment IS-5, Supporting Schedule 1). I&E witness, Ms. Wilson, provided a discussion regarding recovering storm related expenses based on a five-year historic average versus extraordinary storms that cause extraordinary damage and expense and how they relate to using a storm reserve account. I&E St. No. 4, pp. 37-44; I&E St. No. 4-SR, pp. 21-35.

I&E explains that ultimately, after lengthy settlement negotiations, the Joint Petitioners reached an amicable resolution as set forth in the Joint Petition. I&E Statement in Support, p. 20. In the Settlement, the Joint Petitioners agree that FirstEnergy will amortize all known and measurable amounts for both extraordinary and non-extraordinary storm expenses recorded through December 31, 2023, with no rate base or debt cost treatment for unamortized balances; the annual funding for the storm reserve starting January 1, 2025, will be based on the five-year historical average of actual storm costs totaling \$52,802,000, broken down among the Rate Districts as: Met-Ed \$25,319,000, Penelec \$10,954,000, Penn Power \$3,215,000, and West Penn \$13,315,000, and the balance of the storm reserve between rate cases shall be capped at two times the annual funding for the storm reserve of \$52,802,000; and this cap is in addition to the remaining unamortized balances accumulated as of December 31, 2023, any storm reserve activity from 2024, and any extraordinary storm balances.

I&E fully supports the settled upon terms as a full and fair compromise that provides FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with a workable resolution and regulatory certainty all of which is in the public interest. *Id.*

c. OCA

From OCA's standpoint, the key element of this Settlement term is that there will be no rate base treatment of storm expenses. The Company was seeking to include the unamortized balance of storm expenses in rate base and earn a return on those amounts. OCA objected to including these unamortized balances in rate base. OCA witness Mugrace took the position that costs related to storm damage are operating expenses, not capital investments. As such, the Company should not be earning a return on these costs *and* recovering the costs through an amortization expense. This would result in the Company recovering more for storm costs than they actually incurred. OCA

St. 1 at 17. According to OCA, the Company should only be authorized to recover actual and known operating expenses associated with its repairs of storm-related damages. *Id.*

The Settlement provides that the Company will amortize all known and measurable amounts for ordinary and extraordinary storm expenses that were recorded on its books as of December 31, 2023, with *no rate base or debt cost treatment for unamortized balances*. Settlement ¶ 52. Amortization will occur over a five-year period. The Settlement specifies the balances to be recovered for both ordinary and extraordinary storm expense beginning January 1, 2025. *Id.* The Settlement further provides that annual funding for the storm reserve account will be based on the five-year historical average of actual storm expenses equal to \$52.8 million. Settlement ¶ 53. In addition, in the period between rate cases, the balance of the storm reserve will be capped at two times the annual funding amount. Settlement ¶ 54.

OCA argues that the Company's agreement to forego rate base treatment for the unamortized storm-related expense balances will avoid the increased cost to customers of including those balances in rate base and is consistent with OCA's perspective on the proper ratemaking treatment of these balances. OCA Statement in Support, p. 17.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in related to this Settlement provision.

f. LUG

LUG does not specifically address this portion of the Settlement in its Statement in Support.

g. PSU

PSU does not specifically address this portion of the Settlement in its Statement in Support.

h. Walmart

Walmart does not specifically address this portion of the Settlement in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 does not specifically address this portion of the Settlement in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 does not specifically address this portion of the Settlement in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 does not specifically address this portion of the Settlement in its Statement in Support.

1. Discussion and Recommendation

These sections of the Settlement allow FE PA to amortize all known and measurable amounts for both extraordinary and non-extraordinary storm expense recorded through December 31, 2023, with no rate base or debt cost treatment for unamortized balances and continue to permit FE PA to utilize the storm reserve accounts established in prior base rate cases. In addition, the Settlement also establishes the annual funding amounts for the storm reserve and cap the balance of the storm reserve between base rate cases at a specific amount.

The funding amounts and caps on the balances of the storm reserve between base rate cases balances the interests of FE PA in ensuring timely recovery of storm damage costs, with I&E's and OCA's concerns regarding utilization of the storm reserve accounts to recover such costs. These Settlement terms ensure that costs related to storm damage are treated as operating expenses, not capital investments, and that the Company will not be recovering more for storm costs than those actually incurred. Therefore, we recommend these Settlement terms be approved as in the public interest.

4. COVID-19 Cost Deferral (Settlement ¶ 55)

a. FE PA

Due to the COVID-19 pandemic, FE PA explains that it incurred certain incremental expenses in excess of those embedded in rates since the issuance of the Commission's *Emergency Order in Public Utility Service Termination Moratorium Proclamation of Disaster Emergency-COVID-19*, Docket No. M-2020-3019244, ratified on March 26, 2020. FE PA notes it specifically incurred incremental uncollectibles accounts expenses and other extraordinary, non-recurring incremental COVID-19 related costs. FE PA St. No. 3, at 26-27. FE PA proposed to amortize the uncollectibles accounts expenses and other extraordinary, non-recurring incremental COVID-19 related costs over a three-year period. FE PA St. No. 3, at 26; FE PA Exhibit No. PML-1, Adjustment IS-10.

No party challenged FE PA's adjustments to its uncollectibles accounts expense due to the COVID-19 pandemic. However, I&E proposed to disallow recovery of any unamortized balance of COVID-19 costs from rate base, disallow recovery of costs related to late payment charge waivers and reconnection fee waivers, and to amortize COVID-19 expenses over a 5-year period. I&E St. No. 4, at 46-48. Further, OCA proposed to disallow recovery of any unamortized balance of amortized COVID-19 costs from rate base, and to amortize COVID-19 expenses over a 5.3-year period. OCA St. No. 1, at 21-23, 75.

FE PA argues the Commission has allowed public utilities to defer costs for accounting and financial reporting purposes on numerous occasions. More specifically, the Commission has repeatedly authorized public utilities to defer incremental

uncollectibles expenses incurred due to the COVID-19 pandemic.¹² See, e.g., *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Elec. Div.*, Docket Nos. R-2022-3037368, et al. (Order entered Sept. 21, 2023); *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Elec. Div.*, Docket Nos. R-2021-3023618, et al., pp. 44-45 (Opinion and Order entered Oct. 28, 2021); *Pa. Pub. Util. Comm'n v. Duquesne Light Co.*, Docket Nos. R-2021-3024750 (Opinion and Order entered Dec. 16, 2021).

Under the Settlement, the Joint Petitioners agree that Company's revenue increase provided in this Settlement is reflective of deferred COVID-19 costs—except for deferred costs related to waived late payment charges and reconnection fees—totaling \$21,453,000, which will be amortized over five years starting on January 1, 2025 (*i.e.*, \$4,290,000 per year for five years) with no rate base treatment for the unamortized balance. Settlement ¶ 55.

¹² Recovery of these costs is also consistent with prior Commission orders wherein the Commission has granted deferred accounting for expenses that are extraordinary, not reasonably foreseeable, and non-recurring. See, e.g., *Petition of PPL Electric Utilities Corporation for Authority to Defer, for Accounting Purposes, Certain Unanticipated Expenses Relating to Storm Damage*, Docket No. P-2012-2338996 (Opinion and Order entered Feb. 14, 2013) (authorizing the deferral and amortization of certain expenses related to extraordinary and non-recurring storm damage); *Petition of PPL Electric Utilities Corporation for Authority to Defer for Accounting and Financial Reporting Purposes Certain Losses from Extraordinary Winter Storm Damage and to Amortize Such Losses*, Docket No. P-00052148 (Order entered August 25, 2005) (authorizing deferral and amortization of extraordinary winter storm damage); *Petition of PPL Electric Utilities Corporation for Authority to Defer for Accounting and Financial Reporting Purposes Certain Losses from Extraordinary Storm Damage and to Amortize Such Losses*, 231 P.U.R.4th 521 (2004) (Commission approved deferral of expenses associated with storm related damages); *Petition of Mechanicsburg Water Co.*, Docket No. P-910500 (September 25, 1991) (Approved deferral for accounting purposes of capital and other costs associated with water treatment plant expansion.); *Petition of Pennsylvania Gas & Water Co.*, Docket No. P-900454 (September 5, 1990) (Approved deferral of costs of four water treatment plants that were nearing completion.); and *Petition of Pennsylvania Gas & Water Co.*, Docket No. P-920586 (October 21, 1992) (Approved deferral for accounting purposes of water treatment plant costs.).

FE PA argues this provision is reasonable because it: (1) reflects incremental uncollectible expenses incurred due to the pandemic; and (2) balances the Company's interest in recovering these costs with customers' interests in having these extraordinary and unforeseeable costs be recovered over a reasonable period of time. Thus, this Settlement provision is just, reasonable, and in the public interest and should be approved without modification. FE PA Statement in Support, p. 22.

b. I&E

I&E witness Christine Wilson submitted testimony regarding the Company's claim for recovery of COVID-19 deferred costs. I&E St. No. 4, pp. 44-48; I&E St. No. 4-SR, pp. 35-39. Ms. Wilson recommended that, in line with her recommended amortization for extraordinary storm deferrals, she recommended a five-year amortization period that closely aligns with the Company's recent historic filing frequency. I&E St. No. 4, pp. 47; I&E St. No. 4-SR, pp. 36. Further, she recommended disallowance of any rate base treatment for the unamortized balance as that would be inappropriate for an O&M-related expense. I&E St. No. 4, pp. 47; I&E St. No. 4-SR, pp. 36. Further, Ms. Wilson recommended disallowance of the Company's request to defer late payment charge waivers and reconnect charge waivers. I&E St. No. 4, pp. 47; I&E St. No. 4-SR, pp. 36.

I&E explains that after lengthy negotiations, the Joint Petitioners agreed to the COVID-19 deferral Settlement terms set forth in the Joint Petition. In the Settlement, the Joint Petitioners agree that FirstEnergy's revenue increase provided in this Settlement is reflective of the removal of COVID-19 deferral amounts incurred with respect to waived late payment charges and reconnection fees. Further, the remaining deferred COVID-19 costs totaling \$21,453,000 will be amortized over five years starting on

January 1, 2025 (\$4,290,000 per year for five years) with no rate base treatment for the unamortized balance, broken down among the Rate Districts as follows: Met-Ed Rate District \$749,000; Penelec Rate District \$1,544,000; Penn Power Rate District \$580,000; and West Penn Rate District \$1,417,000.

I&E explains it fully supports the settled upon terms as a full and fair compromise that provides FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with an amicable resolution and regulatory certainty which is in the public interest. I&E Statement in Support, p. 21.

c. OCA

Similar to its position on rate base treatment for unamortized storm costs, OCA opposed including unamortized COVID-19 costs in rate base. OCA witness Mugrace testified that the deferred costs associated with COVID-19 are not the sort of expenditures that the Company should earn a return on. OCA St. 1 at 23. He noted that the costs are extraordinary, temporary in nature and will not remain permanently on the Company's balance sheet like other expenditures that are used in the normal daily operations of a utility. *Id.* Mr. Mugrace stated that these types of costs should be recovered entirely through expense amortization without rate base inclusion of unamortized balances. *Id.*

OCA explains that, among other things, the Settlement term related to the Company's recovery of deferred COVID-19 costs provides that the \$21.5 million of such costs will be amortized over five years *with no rate base treatment for the unamortized balance.*

The Settlement addresses OCA's concerns. OCA Statement in Support, p. 18. As with storm costs, having this term in the Settlement will avoid increased costs to customers and will comport with OCA's view of the proper ratemaking treatment for the COVID-19 deferral balances. *Id.*

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in related to this Settlement provision.

f. LUG

LUG does not specifically address this portion of the Settlement in its Statement in Support.

g. PSU

PSU does not specifically address this portion of the Settlement in its Statement in Support.

h. Walmart

Walmart does not specifically address this portion of the Settlement in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 does not specifically address this portion of the Settlement in its Statement in Support.

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IBEW Local 459 does not specifically address this portion of the Settlement in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 does not specifically address this portion of the Settlement in its Statement in Support.

l. Discussion and Recommendation

Under the Settlement, the Joint Petitioners agree that Company's revenue increase provided in this Settlement is reflective of deferred COVID-19 costs—except for deferred costs related to waived late payment charges and reconnection fees—totaling \$21,453,000, which will be amortized over five years starting on January 1, 2025 (*i.e.*, \$4,290,000 per year for five years) with no rate base treatment for the unamortized balance. Settlement ¶ 55.

This provision is reasonable because it: (1) reflects incremental uncollectibles expenses incurred due to the pandemic; and (2) balances the Company's interest in recovering these costs with customers' interests in having these extraordinary

and unforeseeable costs be recovered over a reasonable period of time. Therefore, we recommend it be approved because it is in the public interest.

5. Verizon Complaint (Settlement ¶ 56)

a. FE PA

FE PA's initial filing also reflected the expected impact of the Commission's disposition of the complaint filed by Verizon against FE PA at Docket No. C-2020-3019345 into its FPPTY. FE PA St. No. 1, at 21-22. Specifically, FE PA proposed to record as a regulatory asset the difference in revenues produced from the negotiated contract rates and the new, reduced rates ordered by the Commission. FE PA St. No. 1, at p. 22. Further, FE PA proposed to recover the difference—calculated to cover the period in which the new rates were effective through the effective date of new rates in this case, November 20, 2019, to December 31, 2024—in this case. FE PA St. No. 1, at 22.

I&E and OCA opposed FE PA's proposal to amortize the costs incurred due to the Verizon complaint litigation, and to include any unamortized balance of those costs in rate base. I&E St. No. 3, at 6-11; OCA St. No. 1, at 24-25, 77. In addition, both of these parties noted that appeals of the Commission's Order at Docket No. C-2020-3019345 remained pending before the courts. I&E St. No. 3, at 6, 11; OCA St. No. 1, at 25.

Paragraph 56 of the Settlement resolves this issue and provides that FE PA withdraws its claim for rate base and expense treatment of costs associated with its litigation against Verizon. Settlement ¶ 56. This provision also reserves FE PA's right to

file a future petition for deferral treatment of such costs depending on the outcome of the pending appeals at 42 MAP 2024 and 43 MAP 2024, and any subsequent litigation.

FE PA argues this provision is reasonable because it preserves FE PA's rights to seek deferred accounting treatment for these costs. FE PA Statement in Support, p. 23. FE PA notes that in the Commission's Order at Docket No. C-2020-3019345, the Commission rejected FE PA's proposal to defer the costs associated with this litigation and found "that FirstEnergy's base rate arguments can be deferred to the Companies' next base rate proceedings where the issues can be fully vetted." FE PA St. No. 1-R, at 19 (quoting *Verizon Pa. LLC & Verizon North LLC v. Metro. Edison Co., Pa. Elec. Co., & Pa. Power Co.*, Docket No. C-2020-3019347, at 75 (Order entered Dec. 18, 2020)). FE PA explains that the Commonwealth Court of Pennsylvania further noted on appeal that "the PUC specifically preserved FirstEnergy's right to seek base rate increases to offset its pole attachment reductions in its next base rate proceeding." FE PA St. No. 1-R, at 20; *Verizon Pa. LLC v. Pa. Pub. Util. Comm'n*, 303 A.3d 219 (Pa. Cmwlth. 2023).

FE PA submits that this Settlement provision is designed to ensure FE PA is not precluded from seeking to defer and recover any extraordinary, non-recurring costs associated with the Commission's Order at Docket No. C-2020-3019345 in a subsequent proceeding, due to an argument that it did not seek to do so at the first available opportunity. FE PA Statement in Support, p. 23. FE PA further avers that the provision recognizes that the costs that would result from the Commission's Order at Docket No. C-2020-3019345 remains subject to appeal. *Id.* Therefore, FE PA maintains this provision is just and reasonable, in the public interest, and should be approved without modification.

b. I&E

I&E witness Joseph Kubas submitted extensive testimony regarding the Company's claim for the revenue it did not receive as a result of the Commission ruling in favor of Verizon regarding a dispute involving pole attachments. I&E St. No. 3, pp. 6-11; I&E St. No. 3-SR, pp. 3-11. I&E recommended that both the amortization expense and the rate base amount claims be denied. I&E St. No. 3, pp. 10-11; I&E St. No. 3-SR, pp. 5, 10-11. FirstEnergy noted that an appeal of the Commission's decision was filed in the Commonwealth Court of Pennsylvania at Docket No. 521 CD 2021, and FirstEnergy indicated that it will update its claim if it is successful at the appellate level. I&E St. No. 3, pp. 10-11; I&E St. No. 3-SR, pp. 10-11.

I&E explains that after lengthy negotiations, the Joint Petitioners agreed to the Verizon Complaint Settlement terms set forth in the Joint Petition. In the Settlement, the Joint Petitioners agree that for purposes of this Settlement, FirstEnergy withdraws its claim for rate base and expense treatment associated with its litigation against Verizon. However, FirstEnergy reserves the right to file a future petition for deferral treatment of these costs depending on the outcome of the pending appeals at 42 MAP 2024 and 43 MAP 2024, and any subsequent litigation.

I&E fully supports the settled upon terms as a full and fair compromise that provides FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with an amicable resolution and regulatory guidance, all of which is in the public interest. I&E Statement in Support, p. 22.

c. OCA

In this proceeding, FirstEnergy proposed to recover its estimated level of pole attachment revenue paid by Verizon. That estimate was reflective of the Commission's determination in a case brought by Verizon challenging FirstEnergy's rates for pole attachments. In a December 2020 Order, the Commission directed that FirstEnergy's pole attachment rates be reduced. Given that ruling and the fact that it is the subject of ongoing appellate litigation, FirstEnergy proposed to record as a regulatory asset the difference between the pole attachment rates the Company had been charging and the new reduced rates ordered by the Commission and to recover that difference as part of this case. First Energy St. 1 at 21-22. The Verizon complaint matter is now before the Pennsylvania Supreme Court. OCA St. 1 at 25.

OCA opposed the recovery of this proposed regulatory asset. OCA witness Mugrace stated that it is highly speculative as to how the Supreme Court will rule on the complaint case and that the rate impact of any refunds that may be ordered is not known. *Id.* Mr. Mugrace recommended disallowance of the entire claim on the basis that it is not known and measurable at this time or possibly even before the end of the FPFTY. *Id.*

Mr. Mugrace noted that once the outcome of the litigation with Verizon is more certain, the Company can seek an adjustment in its next base rate case proceeding with respect to the Verizon complaint. *Id.*

The Settlement provides that FirstEnergy will withdraw its claim for recovery of revenue differences associated with its litigation with Verizon. Settlement ¶ 56. OCA argues the withdrawal effectively achieves the same result it recommended. The Settlement further provides that the Company can file a future petition for deferral of

these costs depending on the outcome of the ongoing litigation. OCA Statement in Support, p. 19. OCA submits that this is a reasonable resolution of this issue.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in related to this Settlement provision.

f. LUG

LUG does not specifically address this portion of the Settlement in its Statement in Support.

g. PSU

PSU does not specifically address this portion of the Settlement in its Statement in Support.

h. Walmart

Walmart does not specifically address this portion of the Settlement in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 does not specifically address this portion of the Settlement in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 does not specifically address this portion of the Settlement in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 does not specifically address this portion of the Settlement in its Statement in Support.

l. Discussion and Recommendation

The Settlement provides that FirstEnergy will withdraw its claim for recovery of revenue differences associated with its litigation with Verizon. Settlement ¶ 56. The Settlement further provides that the Company can file a future petition for deferral of these costs depending on the outcome of the ongoing litigation.

This provision preserves FE PA's rights to seek deferred accounting treatment for these costs once the outcome of the litigation with Verizon is more certain. The Company will be permitted to seek an adjustment in its next base rate case proceeding with respect to the Verizon complaint and ensures it will not be precluded from seeking to defer and recover any extraordinary, non-recurring costs associated with

the Commission’s Order at Docket No. C-2020-3019345 in a subsequent proceeding. As such, we recommend it be approved because it is in the public interest.

6. Refunds (Settlement ¶ 57)

a. FE PA

FE PA explains that, prior to the 2024 Base Rate Case filing, FE PA performed reviews of certain non-operating or non-recoverable costs and identified certain costs that were recorded to utility operating accounts. FE PA St. No. 1, at 19; FE PA St. No. 4, at 37-39. As a result of these reviews, FE PA determined that approximately \$13.6 million (including interest) associated with these costs had been included in base rates and collected from customers. FE PA St. No. 1, at 19-20; FE PA St. No. 4, at 37-39. FE PA proposed to issue a one-time fixed bill credit to customers to refund these amounts, allocated to rate schedules on the basis of 2023 distribution revenue. FE PA St. No. 1, at 20-21.

While no parties opposed FE PA’s proposal to provide refunds related to the costs identified by these reviews, I&E recommended a total refund amount of \$14.6 million reflecting the use of an 8% interest rate. I&E St. No. 4, at 58-59. I&E also recommended that the PUC “require the Company to supply such informational filing” on the actual refunds distributed to customers “to all parties in this proceeding within that 30-day period.” I&E St. No. 4, at 59-60. FE PA maintained that a 6% interest rate was appropriate, and agreed to provide the informational filing recommended by I&E. FE PA St. No. 1-R, at 17-18.

FE PA further noted it provided information regarding its calculation of the refund amounts, in direct response to questions from the ALJs at hearing. FE PA

Statement in Support, p. 24. Specifically, FE PA avers that FE PA Exhibit TMA-10, and the testimony at hearing of FE PA witness Ms. Ashton, detailed the nature of the reviews conducted by FE PA to determine what costs should be refunded and confirm that FE PA's ratepayers were protected from paying for any penalties or payments related to the H.B. 6 investigation in Ohio. FE PA Exhibit TMA-10. FE PA submits that it also provided several additional exhibits to support its review and calculation of these refunds. *See* FE PA Exhibit Nos. 6, 7 (CONFIDENTIAL), 8, 9; FE PA Statement in Support, p. 24.

Paragraph 57 of the Settlement reflects FE PA's commitment to refund applicable amounts to customers and provide an informational filing to the Commission and the Parties in this proceeding regarding these refunds. Settlement ¶ 57.

FE PA explains that it is committed to ensuring that its customers are protected from paying for any portion of any penalties or payments related to the H.B. 6 investigation in Ohio. FE PA Statement in Support, pp. 24-25. It avers this Settlement provision is just and reasonable, in the public interest, and should be approved without modification. *Id.* at 25.

b. I&E

I&E witness Christine Wilson submitted testimony regarding the proposed refunds to customers. I&E St. No. 4, pp. 56-60; I&E St. No. 4, pp. 56-58. I&E generally agreed with the Company's proposal to refund monies identified by FirstEnergy's Board of Directors that includes costs that may have lacked proper documentation or been improperly classified or allocated. I&E St. No. 4, p. 57 (citing FE PA St. No. 4, p. 37). Additionally, I&E noted that during a Federal Energy Regulatory Commission audit, the Company identified expenses that were improperly recovered in rates, such as

advertising, sports sponsorships, competitive services, and lobbying. I&E St. No. 4, p. 57 (citing FE PA St. No. 4, p. 37). Also, I&E noted the Company hired an outside consulting firm to review certain costs deemed non-operating or non-recoverable, resulting in a final report to FirstEnergy in early 2023. I&E St. No. 4, p. 57 (citing FE PA St. No. 4, p. 37). Finally, I&E recommended, and FirstEnergy agreed, that FirstEnergy will provide an informational filing to both the Commission and the Parties reporting the actual refunds distributed to customers not more than thirty (30) days after completion of the refund distribution. I&E St. No. 4, p. 59; I&E St. No. 4-SR, pp. 57-58.

In the Settlement, FirstEnergy agrees to refund its customers \$13.6 million as a one-time fixed bill credit based on customer counts within thirty (30) days of the Commission's entry of a final order in this proceeding. The \$13.6 million will be allocated to rate schedules on the basis of 2023 distribution revenues. The total amount was determined by applying a six (6) percent compounded interest which will continue to be calculated until the amount in the regulatory liability is fully refunded to customers. The refund amount is broken down by Rate Districts as follows: (a) approximately \$4.4 million for the Met-Ed Rate District; (b) approximately \$4.3 million for the Penelec Rate District; (c) approximately \$1.2 million for the Penn Power Rate District; and (d) approximately \$3.7 million for the West Penn Rate District. FirstEnergy will submit an informational filing to the Commission and supply the same filing to all Parties in this proceeding reporting the actual refunds distributed to customers no more than thirty (30) days after the completion of the refund distribution.

I&E argues it supports the settled upon customer refund terms as a full and fair agreement that provides FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with a resolution which provides regulatory certainty and is in the public interest. I&E Statement in Support, p. 23.

c. OCA

OCA explains that Paragraph 57 provides for a one-time bill credit to customers totaling \$13.6 million. *See Settlement ¶ 57.* OCA notes that this refund was proposed by the Company in its initial filing and is the result of reviews the Company performed of certain non-operating or non-recoverable costs that were incorrectly recorded to utility operating accounts. Once the misallocated costs were identified, the Company engaged in a process to determine the effect of these misallocations on the rates of the four FirstEnergy operating companies in Pennsylvania. OCA submits that this process is described in the Direct Testimony of Company witnesses Savage and Ashton. FE PA St. 1 at 19-20; FE PA St. 4 at 37-38. OCA explains that the result of this process was that \$13.6 million was incorrectly included in rates and charged to the customers of the Pennsylvania operating companies, hence the proposed refund. OCA Statement in Support, p. 19. OCA supports this provision of the Settlement. *Id.*

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in related to this Settlement provision.

f. LUG

LUG does not specifically address this portion of the Settlement in its Statement in Support.

g. PSU

PSU does not specifically address this portion of the Settlement in its Statement in Support.

h. Walmart

Walmart does not specifically address this portion of the Settlement in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 does not specifically address this portion of the Settlement in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 does not specifically address this portion of the Settlement in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 does not specifically address this portion of the Settlement in its Statement in Support.

1. Discussion and Recommendation

In the Settlement, FirstEnergy agrees to refund its customers \$13.6 million as a one-time fixed bill credit based on customer counts within thirty (30) days of the Commission's entry of a final order in this proceeding. The \$13.6 million will be allocated to rate schedules on the basis of 2023 distribution revenues, and was calculated by applying a six percent compounded interest which will continue to be calculated until the amount in the regulatory liability is fully refunded to customers. Further, FirstEnergy will submit an informational filing to the Commission and supply the same filing to all Parties in this proceeding reporting the actual refunds distributed to customers no more than thirty (30) days after the completion of the refund distribution.

This Settlement term ensures customers receive the bill credit to which they are entitled, with interest. It is in the public interest that customers be properly billed for their utility service, and compensated by a credit if they are not. Further FE PA's commitment to file the informational filing documenting the actual refunds ensures transparency, accountability, and oversight by the Commission and appropriate stakeholders.

G. Customer Service and Universal Service Issues (Settlement ¶¶ 58-70)

1. Customer Service and Call Center Performance (Settlement ¶ 58)

a. FE PA

Paragraph 58 address issues related to the Company's customer service and call center performance. This provision requires the Company to take certain actions related to customer service, including maintaining customer service performance across

several business functions at levels consistent with its 5-year historical average and conducting routine audits of its call center performance. Settlement ¶ 58.

This provision was important to OCA and CAUSE-PA in this proceeding in order to ensure customer service performance and call center performance does not deteriorate in the future. OCA St. No. 6, at 18-21; CAUSE-PA St. No. 1, at 26-28. FE PA believes this provision is reasonable because it reaffirms FE PA's commitment to improve its customers' experiences when interacting with the Company under above-described Customer Experience reorganization. FE PA Statement in Support, pp. 25-26.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include the customer service and call center performance. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA explains that FirstEnergy measures its customer service performance by using Key Performance Indicator (KPI) metrics. OCA St. 6 at 24-25. FirstEnergy did not meet most of its internal metrics. OCA St. 6 at 24; OCA Exh. BA-4. Based on this information, OCA witness Alexander testified that "it is not possible to claim that

FirstEnergy delivers operational excellence.” OCA St. 6 at 24. Additionally, there are no KPI metrics that are specifically applicable to FirstEnergy Pennsylvania Electric Co. *Id.*

OCA notes that FirstEnergy’s responses to OCA’s discovery seeking call center performance data specifically applicable to Pennsylvania customers for the period January 2020 onwards represented a less favorable view of FirstEnergy’s customer service performance. OCA St. 6 at 25; OCA Exh. BA-5. FirstEnergy indicated that customer calls are answered by a live agent less than 60% of the time in almost every month in 2022 and 2023. *Id.* When asked about the discrepancy between FirstEnergy’s reports to the Commission and its response to OCA’s discovery, OCS avers FirstEnergy stated that the calculation of call center performance for the Commission includes all self-service calls answered by Interactive Voice Recognition (IVR) and is not calculated as FirstEnergy did in its data response, specifically for customers who select the option to enter the queue to speak to a customer service representative. *Id.* at 25 (internal citations omitted). OCA witness Alexander determined that the data provided by FirstEnergy as internally reported in its response reflected in Exhibit BA-5 is a more realistic presentation of the customer experience and should be relied upon to determine the reasonableness of the Company’s customer service performance. *Id.* The performance experienced by customers who select the option to speak to a live customer representative and enter the queue has not been “excellent” or adequate and should be improved as reflected in the early 2024 results. *Id.*

OCA notes that FirstEnergy does not maintain any physical presence or office in Pennsylvania for its over 2 million customers to interact with a customer service representative to discuss rates and charges, billing or service quality questions, negotiate payment plans, or file a dispute. OCA St. 6 at 26. OCA explains that, as a result, the call center is the only means of interacting with the Company for routine or complicated concerns about bills, payments, or disputes. *Id.* OCA states that, while the Company

maintains that it does not rely on third party contractors to operate its call center, over 38% (238 of 619) of those handling calls at these call centers are labeled “contractors” who are not “employees.” *Id.* OCA explains that the “contractors” are temporary staff hired through agencies to handle customer calls. *Id.* OCA witness Alexander noted her concern regarding compliance with the Pennsylvania-specific rights and remedies available to residential customers. *Id.* at 26-27.

OCA argues that the reliance on temporary “contractors” for a significant number of individuals to answer the customer calls in a timely manner raised the concern about the qualifications and training of these temporary staff. OCA St. 6 at 27. OCA points out that FirstEnergy claims that contractors are allowed to handle calls from Pennsylvania customers once they pass each stage of training and received a passing score on their assessment for each skill type. *Id.* Based on the voluminous training material received in response to OCA discovery (over 750 pages of materials) OCA witness Alexander testified that “[i]t is not realistic or reasonable to conclude that temporary hires in these call centers are fully trained to handle any of these complex transactions with multiple rights and remedies unique to Pennsylvania without a more rigorous approach.” OCA St. 3 at 27.

OCA submits that there was a serious question throughout this proceeding as to whether FirstEnergy has complied with its prior commitment on its call center performance based on the more realistic and reasonable internal calculations. OCA St. 3 at 28. As such, OCA witness Alexander recommended that FirstEnergy be required to maintain its call answering performance results as reflected in its most recent 2024 information as a condition of any rate increase. *Id.* Ms. Alexander further testified that, even if “compliance” with the call center based on Commission reporting definitions is adequate, the lack of documentation of realistic training and supervision for its virtual call center and “contractor” call center staffing should be improved. *Id.* As such, OCA

witness Alexander recommended that FirstEnergy document routine audits of its call centers generally and temporary contractors specifically to document sufficient and realistic training prior to handling Pennsylvania customer calls. *Id.* OCA witness Alexander noted that this concern is heightened by the small staffing level at the Reading, PA office and the obvious reliance on the out of state call centers to handle most Pennsylvania calls that are not routed based on the geographic location of the call center. *Id.*

Under the terms of the Settlement, FirstEnergy commits to continue maintaining its customer service performance for customer call center, reliability of service, billing, meter reading, and response to customer complaints and disputes at levels consistent with its 5-year historical average as reported to the Commission until the date of its next base rate case filing. Settlement ¶ 58.a. To the extent that FirstEnergy's performance does not meet this level, FirstEnergy agrees to meet with the parties as requested to discuss those areas of challenge and its plans to improve service levels. FirstEnergy agrees that its call center performance results for answering calls and abandonment rate will not deteriorate during the rate effective year and prior to its filing of its next base rate case. *Id.*

Additionally, under the terms of the Settlement, FirstEnergy will conduct and document routine audits of its call center performance. Settlement ¶ 58.b. These audits will be performed annually and will focus on call taking performance and quality and compliance with Pennsylvania-specific policies and regulations. In addition, the Company will specifically document training provided to temporary contractors prior to handling Pennsylvania customer calls. *Id.*

OCA explains that the Settlement provisions regarding FirstEnergy's customer service and call center performance are the result of compromise. OCA avers

that, while the Settlement does not adopt OCA's recommendations in their entirety, it provides assurance that call center performance will not deteriorate. OCA posits that ensuring that customer service and call center performance will not deteriorate from its current levels is in the public interest.

Moreover, OCA avers that FirstEnergy's commitment to conduct routine audits of its call center performance and to document these audits will provide both FirstEnergy, and potentially interested stakeholders, with more information regarding how to improve FirstEnergy's customer service. Additionally, OCA suggests that FirstEnergy's commitment to specifically document training provided to temporary contactors prior to handling Pennsylvania customer calls is an important step towards ensuring that temporary contractors are in compliance with Pennsylvania's Public Utility Code and the Commission's regulations when interacting directly with customers. OCA concludes these customer service provisions are in the public interest and should be adopted by the Commission.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in this proceeding related to the Customer Service and Call Center issues set forth in Paragraphs 58 of the proposed Settlement.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

As explained in the Direct Testimony of IBEW Local 777's Witness Daulph Kline, IBEW Local 777 is the exclusive bargaining representative of ninety-seven (97) customer service representatives (CSRs) employed by FirstEnergy at its Call Center located at 2800 Pottsville Pike, Reading, Pennsylvania 19605-2459. IBEW Local 777 Statement in Support, pg 3. IBEW Local 777 explains that, in June 2024, IBEW Local 777 and FE PA negotiated a gradual wage increase for the CSRs. *Id.* IBEW Local 777 notes that this wage increase is intended to bring wage parity to the CSRs at the Reading, PA Call Center, which has historically trailed behind the wages at FESC's Ohio and West Virginia Call Centers. IBEW Local 777 argues these wages are critical to ensuring the Company has the ability to recruit and retain CSRs, which has been an ongoing issue for the last decade as more and more of this call center work is contracted out of the state.

Id. IBEW Local 777 submits that Pennsylvania-employees are the best to field Pennsylvania-customers' needs, and that keeping this work (and related taxes) in-state is the best interest of FE PA customers and will show measurable improvement in its call center performance metrics. *Id.* at 3-4.

IBEW Local 777 explains that, given IBEW Local 777's investment in call center performance, FE PA agrees to meet with IBEW Local 777 as requested and to the extent that call center performance dipped below its 5-year historic average levels. IBEW Local 777 posits that this compromise is reflected in paragraph 58¹³ of the Settlement, where FE PA commits to meet with the parties, including Intervenor IBEW Local 777, to discuss challenges to its customer service performance and its plans to improve service levels. *Id.* at 4. IBEW Local 777 believes this is a fair compromise to address customer service performance and is in the public interest. *Id.*

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

¹³ IBEW Local 777 inadvertently misidentified the Customer Call Center section of the Settlement as Paragraph 57, when it is in fact Paragraph 58.

1. Discussion and Recommendation

Utility companies like FE PA have a responsibility to provide reasonable customer service, and setting provisions to ensure their compliance with this responsibility is in the public interest. Further, FE PA's commitment to conduct routine audits of its call center performance and to document these audits will provide both FirstEnergy and interested stakeholders, including IBEW Local 777, with information regarding how to improve FirstEnergy's customer service, which will lead to greater transparency, efficiency, and accountability. Finally, FirstEnergy's commitment to specifically document training provided to temporary contactors prior to handling Pennsylvania customer calls is an important step towards ensuring that temporary contractors are in compliance with Pennsylvania's Public Utility Code and the Commission's regulations when interacting directly with customers. As such, we recommend this Settlement term be approved as it is in the public interest.

2. FirstEnergy Pennsylvania Customer Assistance Program (PCAP) (Settlement ¶ 59)

a. FE PA

Paragraph 59 of the settlement addresses issues related to its PCAP. It requires that FE PA to review and adjust its PCAP rates based upon the new, applicable residential electric distribution base rates established in this proceeding to ensure all PCAP customers are receiving the most advantageous CAP rate available, and that the implementation of all changes in FE PA's PCAP approved as part of FE PA's USECP for 2024-2028 approved at Docket Nos. M-2022-3036532, et al. Settlement ¶ 59.

This provision addresses certain issues raised by CAUSE-PA with respect to PCAP in this proceeding. CAUSE-PA St. No. 1, at 34-35. FE PA submits that this

provision is reasonable because it will ensure that customers participating in PCAP continue to obtain the most advantage CAP rate available in light of the base rates approved in this proceeding. FE PA Statement in Support, p. 26. In addition, this provision is reasonable because it commits FE PA to implementing all recently-approved changes to its PCACP by the effective date of the rates established in this proceeding. *Id.*

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy customer assistance program. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA did not specifically address this Settlement term in its Statement in Support.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA argues its witness, Mr. Geller, explained in his direct testimony that the rate impact on PCAP customers depends on the PCAP rates which customers receive, and when FE PA's revised PCAP is implemented. CAUSE-PA St. 1 at 23. CAUSE-PA explains that, assuming FE PA's Percentage of Income Payment PCAP design will take effect prior to the effective date of rates in this proceeding, PCAP customers will receive actual bill rate options and will experience the full financial impact of any approved rate increase until their PCAP rates are adjusted. In addition, CAUSE-PA notes that PCAP customers who are already receiving a Percentage of Income Payment rate will be initially shielded from the financial impact of the approved rate increase, but only if their total annual PCAP credit is less than the approved maximum PCAP credit limit. CAUSE-PA St. 1 at 23.

CAUSE-PA explains that Mr. Geller recommended that FE PA review and adjust PCAP rates based on new applicable residential rates to eliminate any lag between the implementation of any approved rate increase and FE PA's regular PCAP rate adjustments and to help ensure that all PCAP customers are receiving the most advantageous CAP rate available. *Id.* at 34-35. Mr. Geller further recommended that FE PA timely implement recently approved changes to its universal service programs in light of its proposed rate increase, and that FE PA make adjustments to its maximum PCAP subsidy limits to account for increased rates. *Id.*

Paragraph 59(a) of the proposed Settlement provides that FE PA will review and adjust its PCAP rates based on the new applicable residential rates to ensure all PCAP customers are receiving the most advantageous CAP rate available, and Paragraph 59(b) of the proposed Settlement provides that FE PA will implement all

changes to FE PA's PCAP to be approved as part of FE PA's Universal Service and Energy Conservation Plan (USECP) proceeding no later than the effective date of rates.

CAUSE-PA argues that the provisions contained at Paragraph 59 represent important improvements to FE PA's PCAP which will help to better insulate PCAP participants from the financial impacts of FE PA's rate increase. CAUSE-PA Statement in Support, p. 9. CAUSE-PA posits that requiring FE PA to review and adjust its PCAP rates based on new applicable residential rates to ensure that PCAP participants receive the most advantageous rate available will ensure that PCAP rates are calculated taking into account rate increases provided for in the proposed Settlement. *Id.* at 10. CAUSE-PA maintains that, by requiring FE PA to implement all changes to PCAP approved in its recent USECP no later than the effective date of rates, Paragraph 59 will help align the implementation of PCAP reforms with its proposed increase in rates – helping mitigate some of the increased unaffordability that will follow from any approved increase in FE PA's base rates. *Id.* While Mr. Geller's recommendations were not adopted in their entirety, CAUSE-PA asserts that these Settlement provisions reasonably balance the varied interests of the Settlement parties, are reasonable, and should be approved without modification. *Id.*

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

l. Discussion and Recommendation

Paragraph 59 addresses issues related to FE PA's PCAP. This Settlement term requires FE PA to review and adjust its PCAP rates based on new applicable residential rates so PCAP participants receive the most advantageous rate available. This will ensure that PCAP rates are calculated taking into account rate increases provided for in the proposed Settlement. This should improve affordability for FE PA's low-income

customers by insulating PCAP participants from the financial impacts of FE PA's rate increase. Further, by requiring FE PA to implement all changes to PCAP approved in its recent USECP no later than the effective date of rates, Paragraph 59 will help align the implementation of PCAP reforms with its proposed increase in rates – helping to mitigate some of the increased unaffordability that will follow from the increase in FE PA's base rates. Therefore, we recommend this term be approved as being in the public interest.

3. Hardship Fund (Settlement ¶ 60)

a. FE PA

Paragraph 60 addresses issues related to FE PA's Hardship Fund. It requires that FE PA: (a) will consult with its USAC to develop a plan to increase voluntary contributions to its Hardship Fund grant within nine months of the Commission's entry of a final order in this proceeding; (b) will amend its seasonal parameters for the Hardship Fund so that, at a minimum, customers who qualify for a Hardship Fund grant may do so in any month of the year, provided funding is available; (c) will initiate the issuances of plain language notices to low-income customers alerting them of past due bill(s), and of the availability of assistance to help pay their bill; (d) will increase its annual shareholder hardship matching contribution for grant assistance to \$500,000 annually; (e) will make annual shareholder hardship contribution for grant assistance over routine funding levels in the amount of \$2,000,000 annually for a three-year period beginning in 2025; (f) will roll over unspent funds and added to the proceeding year's budget; (g) will increase its maximum Hardship Fund grant to \$600.00; (h) will eliminate any prohibitions against PCAP customers receiving a Hardship Fund grant within ninety days of a final Commission Order in this proceeding; (i) will implement certain data tracking for its outreach efforts to the Company's most vulnerable customers; (j) will use best efforts to measure geographic reach of all outreach efforts to

ensure equitable distribution of efforts across all rate districts; and (k) will provide annual updates to its USAC regarding the aforementioned datapoints until the Company's next base rate case filing. Settlement ¶ 60.

These provisions address certain issues raised by CAUSE-PA with respect to FE PA's Hardship Fund in this proceeding. CAUSE-PA St. No 1, at 36-45. FE PA believes that this provision is reasonable because it is consistent with the Company's efforts to assist low-income customers and proposed additional efforts contemplated by the proposed EAOT, which in addition to contributions to the Hardship Fund included, continuing to meet with the USAC to discuss program outreach and feedback, and reviewing and improving eligibility and application requirements during the USECP proceeding. FE PA Statement in Support, p. 26; *see also* FE PA St. No. 8-R, at 16-20.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's Hardship Fund. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA did not specifically address this Settlement provision in its Statement in Support.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

Funding for Hardship Fund

CAUSE-PA argues that, as discussed extensively in Mr. Geller's direct testimony, FE PA's Hardship Fund is not adequately meeting the well-documented need for assistance and is severely underfunded, with many periods over the last several years where grant funding was fully depleted or otherwise unavailable. CAUSE-PA St. 1 at 37-39. CAUSE-PA notes that Mr. Geller also explained that FE PA's voluntary ratepayer contributions have steadily declined over the past decade. *Id.* at 39-40. Mr. Geller recommended that FE PA increase its annual available hardship funding to \$1 million, and that it explore a plan to improve solicitation of voluntary donations from larger commercial and industrial entities within its service territory. *Id.* at 43: 1-13.

Paragraph 60(a) of the proposed Settlement provides that FE PA will consult with its Universal Service Advisory Committee (USAC) and develop a plan to increase voluntary contributions to its Hardship Fund grant within 9 months of a final order in this proceeding. CAUSE-PA explains that changes to be explored will include

solicitation of donations through e-billing and solicitation of voluntary contributions from the larger commercial and industrial customers. CAUSE-PA Statement in Support, p. 11.

In addition, Paragraph 60(d) provides that FE PA will increase its annual shareholder hardship matching contribution for grant assistance to \$500,000 annually. Paragraph 60(e) provides that FE PA will also make an annual shareholder hardship contribution for grant assistance over routine funding levels in the amount of \$2,000,000 annually for a three-year period beginning in 2025.

Paragraph 60(f) of the proposed Settlement provides that, to the extent any unspent funds remain at the end of the program year, those funds will be rolled over and added to the available budget for the following year. Excess hardship funds may be transferred amongst Rate Districts based upon need.

CAUSE-PA asserts that the provisions contained at Paragraph 60(a, d-f) of the proposed Settlement related to FE PA's hardship funding are reasonable and should be approved. CAUSE-PA avers that, while Mr. Geller's recommendations were not fully adopted, these proposed Settlement provisions will help to meaningfully improve the funding of FE PA's Hardship Fund. CAUSE-PA Statement in Support, p. 11. CAUSE-PA asserts that, by requiring that FE PA develop a path to increase voluntary hardship fund contributions in conjunction with its USAC, the proposed Settlement will help FE PA to develop processes to increase declining voluntary contributions, in line with Mr. Geller's recommendations. *Id.* CAUSE-PA asserts that requiring FE PA to provide for a three-year increase to hardship funding will provide FE PA with time to develop and implement a plan to increase voluntary contributions – including contributions from larger commercial and industrial entities within its service territory. CAUSE-PA St. 1 at 43: 1-14. Finally, CAUSE-PA argues that requiring FE PA to rollover unused hardship funding to the following year will help to ensure that FE PA is utilizing available

hardship funding to provide grant assistance to low-income customers. CAUSE-PA Statement in Support, p. 11. For these reasons, CAUSE-PA asserts that the proposed Settlement provisions contained at Paragraph 60(a, d-f) are reasonable, in the public interest, and should be approved.

Hardship Fund Parameters

CAUSE-PA argues that FE PA's Hardship Fund is not serving the need for assistance amongst low-income customers. CAUSE-PA explains that the average arrearage held by low-income customers regularly exceeds the maximum Hardship Fund grant limit of \$500. CAUSE-PA St. 1 at 38. CAUSE-PA expressed concern that PCAP customers are excluded during certain periods throughout the year from receiving a Hardship Fund grant, and that FE PA limits hardship funding during certain times of the year to only customers who have experienced a service termination. *Id.* at 41-42. CAUSE-PA further argues that, even with monthly rate assistance, PCAP customers face unaffordable monthly bills and barriers to staying connected to services – and often encounter added financial hardships that cause them to fall behind of their PCAP bills. *Id.* CAUSE-PA asserts that denying Hardship Funding to PCAP customers exposes these customers to harsh consequences of utility termination. *Id.* CAUSE-PA explains that the loss of essential utility services is a common catalyst to homelessness, and has a significant impact on the ability of vulnerable populations to manage medical conditions – worsening health outcomes for individuals experiencing a range of medical conditions. CAUSE-PA St. 1 at 20-21.

CAUSE-PA's witness, Mr. Geller, recommended that FE PA: (1) increase its hardship funding, as discussed, to \$1 million and improve solicitation of voluntary donations; (2) adopt explicit exemptions to upfront payment requirements; (3) amend seasonal parameters so that, at minimum, customers whose electric service is off or who

are at risk of termination can qualify for hardship funding; (4) eliminate any prohibition on PCAP customers receiving a Hardship Fund grant; and (5) increase its maximum grant amount from \$500 to \$600. CAUSE-PA St. 1 at 43-44.

Paragraph 60(b) provides that FE PA will amend its seasonal parameters for the Hardship Fund so that, at minimum, customers whose electric service is off or who are at risk of termination can qualify for a Hardship Fund grant in any month of the year, provided funding is available and the applicant is otherwise eligible.

Paragraph 60(g) provides that FE PA will increase its maximum Hardship Fund grant to \$600.

Finally, Paragraph 60(h) provides that, within 90 days of the final order in this proceeding, FE PA will eliminate any prohibitions against PCAP customers receiving a hardship fund grant. FE PA will work with Dollar Energy Fund (DEF) to update its internal and customer-facing materials to reflect this changed policy without delay.

CAUSE-PA asserts that the provisions contained at Paragraph 60(b, g, h) of the proposed Settlement are reasonable, in the public interest, and should be approved. While Mr. Geller's recommendations were not fully adopted, CAUSE-PA argues that these proposed provisions will help to meaningfully improve access to FE PA's Hardship Fund – thereby helping to offset the negative financial impacts of the increased rates on low-income households. CAUSE-PA Statement in Support, p. 13. CAUSE-PA argues that, by increasing the maximum Hardship Fund grant to \$600, the proposed Settlement will help to better serve customers who carry higher arrears and face termination as a result of these balances. *Id.* CAUSE-PA posits that, by requiring FE PA to amend its seasonal parameters for the Hardship Fund, customers whose electric service is off or who are at risk of termination can qualify for Hardship Fund assistance in any month. *Id.* CAUSE-PA argues this will provide assistance to customers who are at risk of

termination so they can more easily qualify for Hardship Fund assistance before they are terminated – preventing many of the harshest consequences to home health, safety, and stability that follow an involuntary termination. *Id.* at 13-14. Finally, CAUSE-PA submits that requiring FE PA to eliminate its prohibition of PCAP customers receiving a Hardship Fund grant will provide an important avenue for PCAP customers to access needed grant assistance if they are facing payment troubles and are unable to keep up with their monthly bills. *Id.* For these reasons, CAUSE-PA asserts that the provisions contained at Paragraph 60(g, b, h) of the proposed Settlement are reasonable, in the public interest, and should be approved without modification.

Hardship Fund Data Tracking and Outreach

CAUSE-PA argues that its witness, Mr. Geller, explained that, compared to the number of low-income customers terminated for nonpayment, only small numbers of low-income customers have been able to access Hardship Fund assistance. CAUSE-PA St. 1 at 37-38. CAUSE-PA notes that Mr. Geller recommended substantial mitigation to connected eligible customers with Hardship Fund grants. *Id.*

Paragraph 60(c) requires FE PA to initiate the issuance of plain language notices to low-income customers with a past due bill during the winter heating season to let them know that they have a past due bill and outline the assistance that is available to help pay their bill, including but not necessarily limited to Hardship Fund, PCAP, and LIHEAP. Paragraph 60(i) provides that FE PA will implement data tracking for its outreach efforts to the Company's most vulnerable customers.

Pursuant to Paragraphs 60(j) and (k), FE PA will use best efforts to measure the geographic reach of all outreach efforts to ensure equitable distribution of efforts across its rate districts based on relative need and poverty levels. Further, FE PA will

provide annual updates to its USAC regarding these datapoints until its next base rate case filing.

CAUSE-PA asserts that the provisions contained at Paragraph 60(c) and (i-k) of the proposed Settlement are reasonable, in the public interest, and should be approved. CAUSE-PA argues that, by requiring that FE PA implement data tracking on outreach efforts related to its low-income assistance programs, Paragraph 60(i) will help the Commission, parties, and interested stakeholders to better evaluate whether and to what extent FE PA's outreach efforts are affecting PCAP enrollment. CAUSE-PA Statement in Support, p. 15. CAUSE-PA further avers that, by requiring that FE PA use best efforts to measure geographic reach of outreach efforts to ensure equitable distribution of these efforts across Rate Districts based on relative need and poverty level – and report this data to the USAC, FE PA's outreach efforts related to its universal service programs will be better targeted to low-income customers who will be better positioned to learn about and ultimately enroll in available assistance. *Id.* CAUSE-PA posits that providing plain language notices to low-income customers with past-due bills during the winter heating season detailing available assistance will help to identify low-income customers before the accrual of unmanageable arrears which lead to service termination. CAUSE-PA St. 1 at 17-18. For these reasons, CAUSE-PA asserts that the provisions contained at Paragraph 60(c) and (i-k) of the proposed Settlement are reasonable, in the public interest, and should be approved without modification. CAUSE-PA Statement in Support, p. 15.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

1. Discussion and Recommendation

These provisions address certain issues raised by CAUSE-PA with respect to FE PA's Hardship Fund. These proposed Settlement provisions will help to meaningfully improve the funding of FE PA's Hardship Fund. Under the Settlement, FE PA will develop a plan to increase voluntary hardship fund contributions, which will increase the amount of financial resources available to assist low-income customers. Additionally, under the Settlement, FE PA will rollover unused hardship funding to the following year, which will ensure that FE PA is fully utilizing available hardship funding to assist its low-income customers. By increasing the maximum Hardship Fund grant to \$600, the proposed Settlement will provide greater assistance to customers who qualify for the program, and will help offset the rate impact of the increased rates on these customers.

Further, these provisions amend FE PA's Hardship Fund qualification parameters to allow customers to apply for assistance in any month, regardless of whether they participate in PCAP, increasing low-income customers' ability to access this financial resource.

Under the Settlement, FE PA will implement data tracking on outreach efforts related to its low-income assistance programs, which will help the Commission, parties, and interested stakeholders to better evaluate whether and to what extent FE PA's outreach efforts are affecting PCAP enrollment. FE PA will report this data to the USAC, so it can ensure FE PA's outreach efforts are better targeted to low-income customers.

Finally, these Settlement terms ensure that FE PA will issue plain language notices to low-income customers with past-due bills during the winter heating season

detailing available assistance will help to identify low-income customers before the accrual of unmanageable arrears which lead to service termination.

All of these terms are designed to increase customer awareness of and access to FE PA's Hardship Fund program, and we recommend they be approved as being in the public interest.

4. Low Income Usage Reduction Program (LIURP) (Settlement ¶ 61)

a. FE PA

Paragraph 61 addresses issues related to FE PA's LIURP. It requires that FE PA: (a) increase its annual LIURP budget by a percentage equal to any approved increase in residential base distribution rates in this proceeding allocated proportionally among FE PA's rate districts; (b) will continue to carryover any unspent LIURP funds from the previous program year and add them to the budget for the following year by rate district; and (c) will continue to proactively coordinate delivery of services with other local, state, and federal efficiency, weatherization, and home repair programs that can help remediate health, safety, and other home repair issues that prevent the installation of comprehensive efficiency measures and cannot be resolved through FE PA's health and safety budget alone. Settlement ¶ 61.

These provisions address certain issues raised by CAUSE-PA with respect to FE PA's LIURP in this proceeding. CAUSE-PA St. No 1, at 45-51. FE PA believes that these LIURP Settlement terms constitute a reasonable compromise of the parties' competing litigation positions. FE PA Statement in Support p. 28.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's LIURP. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA did not specifically address this Settlement term in its Statement in Support.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

LIURP Funding

CAUSE-PA asserts that FE PA's LIURP serves only a small portion of those in need of comprehensive energy efficiency and usage reduction assistance. CAUSE-PA St. 1 at 47-48. CAUSE-PA explained that its witness, Mr. Geller, testified

that FE PA's LIURP is insufficiently funded to meet the need for usage reduction assistance amongst its low-income customers, and that FE PA's consistent failure to expend its available budget in face of this substantial need suggests that the program is not sufficiently accessible. *Id.* at 48-49. Further, CAUSE-PA points out that Mr. Geller suggested multiple reforms to help address unaffordability for low-income customers, particularly if FE PA were permitted to increase its rates of basic electric services. *Id.* at 46.

To help improve the reach of LIURP and offset the disproportionately negative impact of an approved rate increase on high usage low-income customers, CAUSE-PA explained that Mr. Geller recommended that FE PA increase its LIURP budget by a percentage equal to any approved increase in residential rates, allocated proportionally amongst FE PA's Rate Districts. *Id.* at 50.

Paragraph 61(a) of the proposed Settlement provides that FE PA will increase its LIURP annual budget by a percentage equal to any approved increase in residential rates in this proceeding, allocated proportionally amongst FE PA's Rate Districts.

Paragraph 61(b) of the proposed Settlement requires FE PA to continue to carryover any unspent LIURP funds from the previous program year and add them to the budget for the following year by rate district, subject to the modification discussed below and set forth in Paragraph 61(b).

Further, pursuant to Paragraph 61(a), if rollover amounts exceed \$1 million for any rate district, FE PA will host a collaborative meeting within 30 days of the end of the program year with members of its USAC, interested parties to this proceeding, and the Commission's Bureau of Consumer Services staff. At this collaborative, FE PA will

identify reasons for the exceedance and outline a plan for how it intends to (1) fully expend the current budget and carry-over amount; and (2) prevent excessive carryover in the new program year. Paragraph 61(a) further provides that all carryover must be spent on LIURP-related services, while reserving FE PA's right to propose reallocation of rollover funding across Rate Districts based on relative need. Finally, Paragraph 61(a) provides that, following the collaborative, FE PA will make a filing with the Commission at its USECP Docket outlining its proposed plan and requesting staff action to approve the plan within 60 days. FE PA is required to serve a copy of its filing on all parties to this proceeding.

CAUSE-PA asserts that the provisions at Paragraph 61(a) and (b) of the proposed Settlement will provide meaningful improvements to FE PA's LIURP, are squarely within the public interest, and should be approved. According to CAUSE-PA, requiring FE PA to increase LIURP funding by a percentage equal to the increase in residential rates in this proceeding and allocated proportionally across Rate Districts, will help additional low-income customers access usage reduction assistance which can play a critical role in improving household energy efficiency and mitigating rate unaffordability. CAUSE-PA Statement in Support, p. 17. CAUSE-PA argues that providing a detailed process whereby FE PA is required to rollover unused LIURP funds, and address unspent funds in exceedance of \$1 million for any Rate District through a collaborative process resulting in a Commission filing, will help to ensure that FE PA's unspent funding is being utilized to assist FE PA's low income customers in an appropriate manner, in line with Commission directive. *Id.* at 17-18.

LIURP Coordination

In addition to the improvements to LIURP recommended by Mr. Geller and discussed above, CAUSE-PA explains that Mr. Geller also recommended that the

Commission require FE PA to improve efforts to proactively coordinate delivery of services with other local, state, and federal efficiency, weatherization, and home repair programs. In particular, CAUSE-PA argues it is essential that FE PA improve coordination efforts given the unique potential presented by additional funding made available through the Inflation Reduction Act (IRA). CAUSE-PA asserts that this additional coordination can help to remediate health, safety, and other home repair issues that prevent LIURP services. CAUSE-PA notes that Mr. Geller further recommended that FE PA be required to host a series of collaborative meeting with USAC members (as well as local weatherization and home repair program administrators) to identify concrete ways to leverage and coordinate LIURP with home repair and weatherization programs. CAUSE-PA St. 1 at 50: 3-23. Finally, CAUSE-PA explains that Mr. Geller recommended that, within 6 months of the final order in this proceeding, FE PA should provide the Commission and its USAC with a report related to coordination of LIURP services. *Id.*

Paragraph 61(c) provides that FE PA will continue to proactively coordinate delivery of services with other local, state, and federal efficiency, weatherization, and home repair programs that can help remediate health, safety, and other home repair issues that prevent the installation of comprehensive efficiency measures and cannot be resolved through FE PA's health and safety budget alone. This Paragraph further provides that, over the twelve months following a Final Order in this proceeding, FE PA will host a series of collaborative meetings with its USAC, as well as local weatherization and home repair program administrators across its service territory to identify concrete ways to leverage and coordinate LIURP with home repair and weatherization programs.

Paragraph 61(c) requires FE PA to continue to proactively coordinate delivery of services with other local, state, and federal efficiency, weatherization, and

home repair programs that can help remediate health, safety, and other home repair issues that prevent the installation of comprehensive efficiency measures and cannot be resolved through FE PA's health and safety budget alone. CAUSE-PA argues that requiring FE PA to coordinate with other available sources of assistance will help low-income customers who would otherwise be denied LIURP services because of these home repair issues. CAUSE-PA Statement in Support, p. 19. By requiring FE PA to engage in a collaborative process through its USAC (as well as local weatherization/ home repair program administrators), CAUSE-PA argues that these provisions will help FE PA receive feedback important to effectively designing policies and procedures related to leveraging and coordination of LIURP services. *Id.*

In sum, CAUSE-PA avers the proposed Settlement provisions at Paragraph 61 reasonably address Mr. Geller's recommendations and represent important improvements to FE PA's LIURP. *Id.* CAUSE-PA asserts that these provisions are just, reasonable, in the public interest, and should be approved without modification. *Id.*

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

l. Discussion and Recommendation

These Settlement provisions improve FE PA's LIURP. Under the Settlement, FE PA will increase LIURP funding by a percentage equal to the increase in residential rates in this proceeding and allocated proportionally across Rate Districts, which will help additional low-income customers access usage reduction and help mitigate rate unaffordability. Further, FE PA will rollover unused LIURP funds and address unspent funds in exceedance of \$1 million for any Rate District through a

collaborative process resulting in a Commission filing, will provide oversight to ensure that FE PA's unspent funding is being utilized to assist FE PA's low-income customers in an appropriate manner.

Additionally, under the Settlement, FE PA will coordinate with other local, state, and federal efficiency, weatherization, and home repair programs to provide better service and supports to low-income customers. Engaging in a collaborative process through its USAC (as well as local weatherization/ home repair program administrators), will help FE PA receive feedback important to effectively designing policies and procedures related to leveraging and coordination of LIURP services. As such, we recommend these Settlement terms be approved because they are in the public interest.

5. Universal Service Administration (Settlement ¶ 62)

a. FE PA

Paragraph 62 addresses issues related to FE PA's Administration of its Universal Service Programs. Specifically, it requires that FE PA: (a) implement a process whereby it will leverage LIHEAP data from DHS to meaningfully improve enrollment and retention in the PCAP, simplify burdensome paperwork requirements, and reduce unnecessarily duplicative administrative costs; (b) will, within six months of the Commission's entry of a final order in this proceeding, petition the Commission for approval to implement automatic enrollment for LIHEAP recipients that have never previously been enrolled in either PCAP or CAP; and (c) implement a biennial audit process for monitoring and oversight of the DEF administration of programs within six months of the Commission's entry of a final order in this proceeding. Settlement ¶ 62.

These provisions address certain issues raised by CAUSE-PA with respect to FE PA's Universal Service screening, enrollment, retention, and admiration in this proceeding. CAUSE-PA St. No 1, at 51-60. FE PA believes that this Settlement provision is reasonable because it is consistent with FE PA's tentative implementation plans for the LIHEAP data share, and builds upon FE PA's in process work with its information technology department to use the data receive through this process to complete an automatic recertification and conduct outreach to non-participants to encourage enrollment. FE PA Statement in Support, p. 28; *see also* FE PA St. No. 8-R, at 16.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's Universal Service Administration. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA did not specifically address this Settlement term in its Statement in Support.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

Use of LIHEAP Data for PCAP Enrollment and Retention

CAUSE-PA explains that large numbers of FE PA customers who are eligible for PCAP are not enrolled in the program. As of December 2023, 81,479 customers were enrolled in PCAP, compared to FE PA's 223,818 *confirmed* low-income customers. CAUSE-PA St. 1 at 22. CAUSE-PA argues FE PA's Hardship Fund and LIURP are also severely undersubscribed compared to need amongst low-income customers. CAUSE-PA's witness, Mr. Geller, recommended that FE PA adopt several provisions that would assist FE PA to best utilize LIHEAP data from the Department of Human Services (DHS) to improve PCAP enrollment and retention. *Id.* at 56-58. CAUSE-PA notes that FE PA agreed in its recent consolidation proceeding to utilize LIHEAP data to perform PCAP recertification wherever possible. *Id.* at 57. Mr. Geller recommended that FE PA develop a process for utilizing this data to also facilitate auto-enrollment of LIHEAP recipients into PCAP. *Id.* at 57-58. Mr. Geller specifically recommended that, within 90 days of the final order in this proceeding, FE PA be required to file a Petition to amend its USECP to permit autoenrollment. Further, Mr. Geller recommended that FE PA convene at least one meeting with its USAC to obtain feedback on the Petition before filing. *Id.*

Paragraphs 62(a) of the proposed Settlement provides that, within 90 days of the final order in this proceeding, FE PA will implement a process to leverage LIHEAP data from DHS to meaningfully improve enrollment and retention in PCAP,

simplify burdensome paperwork requirements, and reduce unnecessarily duplicative administrative costs. Paragraph 62(a) specifies that FE PA will leverage the LIHEAP data for the purposes of: (1) developing a seamless, concurrent, and immediate process for PCAP enrollments without further application; (2) auto recertification; and (3) outreach to non-participants. Customers will be notified that LIHEAP data was used for the streamlined application or auto recertification, neither of which will require additional income documentation.

In addition, Paragraph 62(b) of the proposed Settlement requires that FE PA, within 6 months of the final order in this proceeding, petition the Commission for approval to implement automatic enrollment for LIHEAP recipients that have never previously been enrolled in either PCAP or CAP.

CAUSE-PA asserts that the provisions contained at Paragraphs 62(a) and (b) of the proposed Settlement are reasonable and should be approved. CAUSE-PA explains that, while Mr. Geller's recommendations were not approved in their entirety, nor on his recommended timeline, these proposed Settlement provisions will eventually help to leverage DHS data to improve overall enrollment into PCAP as well as better ensure that PCAP enrollees are not removed from the program for failure to recertify. CAUSE-PA Statement in Support, p. 21. Improving PCAP enrollment and retention rates helps low-income customers access and maintain more affordable rates and, in turn, helps these customers and their households to access and maintain services in their homes. *Id.* CAUSE-PA argues that FE PA's low-income customers face significant and disproportionate energy burdens, and these high energy burdens result in unaffordable bills and the accrual of unmanageable arrears, which lead to termination of services. CAUSE-PA St. 1 at 15. CAUSE-PA argues that subjecting low-income customers to categorically unaffordable bills is likely to result in a corresponding increase in uncollectible expenses which impact all ratepayers. *Id.* at 21. CAUSE-PA asserts that

access to PCAP is essential helping low-income customers maintain services in their homes which result in a cascade of consequences for low-income customers, their households and their communities. CAUSE-PA Statement in Support, p. 21. Further, CAUSE-PA submits that access to PCAP is essential to improving disparities in involuntary termination rates and reducing uncollectible expenses which ultimately affect all ratepayers. *Id.*

Taken together, CAUSE-PA asserts that these provisions regarding the appropriate use of DHS LIHEAP data to streamline PCAP enrollment and retention are just, reasonable, in the public interest, and should be approved without modification. *Id.*

Oversight of FE PA's Universal Service Administrator

CAUSE-PA also raised concerns that DEF's policies and procedures for administration of FE PA's universal service programs improperly restricted program enrollment. CAUSE-PA St. 1 at 58-59. Specifically, CAUSE-PA noted that DEF appeared to be imposing requirements related to income verification which are not contemplated within FE PA's USECP, but which impact program eligibility determinations. *Id.* at 59. CAUSE-PA pointed out that FE PA does not have a formal policy or procedures for monitoring DEF's administration of its programs. *Id.* at 58-59. CAUSE-PA posits that, without regular assessment to ensure proper administration of FE PA's universal service programs, it is impossible to determine whether these programs are operating as intended by FE PA and Commission orders, and in a manner that allows low-income customers to enroll in these programs without improper barriers. *Id.* at 59. CAUSE-PA claims that regular assessment of universal service program administration is essential to the Commission's role of overseeing USECP programs, activities, and services – and ensuring that USECPs are operated in an appropriate and cost-effective manner. *See* 66 Pa.C.S. §§ 2802(10); 2804(9).

CAUSE-PA's witness, Mr. Geller, recommended that, within 6 months of the final order in this proceeding, FE PA be required to implement a clear auditing process for reviewing DEF-handled applications and enrollment processes – as well as DEF's policies, procedures, trainings, and internal guidelines related to administration of FE PA accounts. CAUSE-PA St. 1 at 60: 1-14. Mr. Geller recommended that auditing procedures be developed in consultation with FE PA's USAC, and that auditing reports be reviewed every 6 months. *Id.*

Paragraph 62(c) of the proposed Settlement requires FE PA to implement a biennial audit process for monitoring and oversight of DEF's administration of programs within 6 months of the final order in this proceeding. A review of the components to be audited will be reviewed with FE PA's USAC, where audit results will also be shared when available.

CAUSE-PA asserts that the provisions at Paragraphs 62(c) of the proposed Settlement provide for important improvements to FE PA's oversight of the administration of its universal service programs. CAUSE-PA Statement in Support, p. 23. CAUSE-PA argues that implementing a biennial audit process for monitoring and oversight of DEF's administration of FE PA's universal service program within 6 months of the final order in this proceeding will help to evaluate whether FE PA's universal service programs are being administered in a manner that is accessible and in compliance with FE PA's policies, and applicable Commission regulation and orders. 66 Pa.C.S. §§ 2802(10); 2803; 2804(9). CAUSE-PA avers that requiring that audit results to be reviewed with FE PA's USAC will also help to ensure that USAC members are receiving important information related to the administration of FE PA's universal service programs. CAUSE-PA Statement in Support, p. 23. For these reasons, CAUSE-PA

asserts that the provisions of the proposed Settlement are reasonable, in the public interest, and should be approved. CAUSE-PA Statement in Support, p. 23.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

1. Discussion and Recommendation

These provisions address certain issues raised by CAUSE-PA with respect to FE PA's Universal Service screening, enrollment, retention, and admiration in this proceeding. These provisions are designed to leverage DHS data to improve PCAP enrollment and better ensure that PCAP enrollees are not removed from the program for failure to recertify. Improving PCAP enrollment and retention rates helps low-income customers access and maintain more affordable rates and utility service. Ensuring low-income customers have affordable service will benefit all of FE PA's ratepayers since it should reduce the amount of uncollectible expenses.

Further, these provisions improve the oversight of the administration of FE PA's universal service programs. Under the Settlement, FE PA will implement a biennial audit process for monitoring and oversight of DEF's administration of FE PA's universal service program within 6 months of the final order in this proceeding. This will increase transparency and accountability and ensure FE PA's universal service programs are being administered in a manner that is accessible to customers and in compliance with FE PA's policies, as well as applicable Commission regulation and orders. As such, we recommend these Settlement provisions be approved as they are in the public interest.

6. Confirmed Low-Income Customer Definition (Settlement ¶ 63)

a. FE PA

Paragraph 63 addresses issues related to FE PA's definition of Confirmed Low-Income Customers. Specifically, it requires that FE PA will, within six months of a final Commission order in this proceeding, convene a collaborative of its USAC to discuss its current definition of "confirmed low-income" customers with commitment to, within twelve months of a final Commission order in this proceeding, revise its definition of the same consistent with 52 Pa. Code § 54.72. Settlement ¶ 63.

This provision addresses certain issues raised by CAUSE-PA with respect to FE PA's definition of "confirmed low-income" in this proceeding. CAUSE-PA St. No 1, at 8-12. FE PA believes that this term represents a reasonable compromise of the parties' competing litigation positions. FE PA Statement in Support, p. 29.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's definition of confirmed low-income customer. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

The Commission's regulations require that any EDC that has "obtained information that would reasonably place the customer in a low-income designation" should consider that customer a "confirmed low-income customer" (CLI customer). 52 Pa. Code § 54.72. The Commission has made clear the types of information that a customer can use to "reasonably place [them] in a low-income designation." *Id.* The Commission's regulations define a "low-income customer" as follows: "A residential utility customer whose household income is at or below 150% of the Federal poverty guidelines." *Id.* In implementing the waiver of cash security deposits for low-income households, for example, Commission regulations provide that "An applicant is confirmed to be eligible for a customer assistance program by the public utility if the applicant provides income documents or other information attesting to his or her eligibility for state benefits based on household income eligibility requirements that are consistent with those of the public utility's customer assistance programs." 52 Pa. Code § 56.32(e).

OCA explains that FirstEnergy currently only considers CAP customers and customers who received LIHEAP cash or crisis grants, and customers with payment arrangements as CLI customers. OCA St. 5 at 33. OCA witness Colton recommended that FirstEnergy modify its internal low-income confirmation procedure to include all options available to customers under the Commission's regulations, including self-certification, for all instances, including service disconnection and reconnection, without requiring verification of precise income levels. OCA St. 5 at 35-36. Additionally, OCA witness Colton recommended that FirstEnergy should add to each residential tariff under "Special Provisions," a new paragraph with the following language: "A confirmed low-income residential account, including applicants, will be afforded each protection accorded by tariff or regulation, which tariff or regulation applies to any customer or

applicant with household income at or below 150% of the Federal Poverty Level.” OCA St. 5 at 36.

Under the terms of the Settlement, within 6 months of a final order in this proceeding, FirstEnergy will convene a collaborative of its USAC to discuss its current definition of CLI customers with the commitment to, within 12 months of a final order of this proceeding, revise its definition to clearly outline those criteria which would qualify for CLI definitions and the timeframe for which a CLI designation will be retained under the Company’s practices and procedures and consistent with 52 Pa. Code § 54.72. Settlement ¶ 63.

Requiring FirstEnergy to convene a collaborative at its next USAC to discuss its current definition of Confirmed Low-Income customers in order to revise its definition and time frame for CLI customer designation is in the public interest. OCA Statement in Support, p. 24. The determination of whether a customer is identified as CLI impacts security deposit requirements and utility assistance program eligibility. *Id.* at 24-25. OCA argues that ensuring that FirstEnergy will convene a collaborative at its next USAC to address this important issue represents a reasonable compromise reached by the parties in Settlement. OCA Statement in Support, p. 25.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA raised concerns that FE PA’s current definition of confirmed low-income customers was unduly restrictive and out of line with the Commission’s

definition, therefore resulting in significant undercounting of FE PA’s low-income customers and a chronic underassessment of need. CAUSE-PA St. 1 at 9-10. CAUSE-PA’s witness, Mr. Geller, explained that Section 54.72 of the Commission’s regulations categorize confirmed low-income customer accounts as “[a]ccounts where the EDC has obtained information that would reasonably place the customer in a low-income designation.” *Id.* at 8; *see* 52 Pa. Code § 54.72. CAUSE-PA argues that in contrast, FE PA maintains two different internal definitions of CLI customers, each of which are more narrow than the Commission’s definition of the term. *Id.* at 8-9. CAUSE-PA notes that in 2022, FE PA began removing the “confirmed low-income” designation from customer accounts if they have not affirmatively verified income with FE PA within the prior 24 months. *Id.* at 9. CAUSE-PA argues that limiting confirmed low-income designations to 24 months limits protections available to low-income customers, the information that FE PA can provide about low-income customers, and FE PA and the Commission’s ability to appropriately assess whether FE PA’s programs are appropriately designed to serve the need across FE PA’s service territory. *See Id.* at 9; 37, fn 87.

Mr. Geller recommended that FE PA be required to expand definition of “confirmed low-income customers” consistent with the Commission’s regulations, to include any information provided by the customer that reasonably places the customer in a low-income category – including the customer’s verbal identification. *Id.* at 66.

Additionally, Mr. Geller discovered that FE PA terminated service to over 200 confirmed low-income customers between January 2022 and March 2024 because they had not properly identified their low-income status. *Id.* at 65. CAUSE-PA explains that FE PA’s expert witness testified that, for any reported CLI terminations during the winter moratorium, FE PA was made aware of CLI status after termination occurred. *Id.* at 65. CAUSE-PA argues that FE PA reaching out to low-income customers *after* termination – and following the likely severe impact of involuntary termination in the

winter months – speaks to the critical need for FE PA to routinely screen and identify low-income customers. CAUSE-PA St. 1-SR at 28. CAUSE-PA notes that Mr. Geller recommended, in contemplation of the prohibition on winter terminations which applies to customers with incomes of up to 250% FPL, FE PA be required to develop policies to improve identification of households between 150-250% FPL. CAUSE-PA St. 1 at 66.

Paragraph 63 of the proposed Settlement provides that, within 6 months of a final order in this proceeding, FE PA will convene a collaborative of its USAC to discuss its current definition of CLI customers. Pursuant to this Paragraph, FE PA commits to revise its definition within one year of a final order in this proceeding to clearly outline those criteria which would qualify for CLI definitions and the timeframe for which a CLI designation will be retained under the Company's practices and procedures and consistent with 52 Pa. Code § 54.72.

CAUSE-PA argues that the provisions at Paragraphs 63 of the proposed Settlement will lead to the adoption and implementation of important improvements to FE PA's policies related to the classification of confirmed low-income customers. CAUSE-PA Statement in Support, p. 25. CAUSE-PA asserts that, while Mr. Geller's recommendations regarding FE PA's definition of confirmed low-income customers were not adopted in their entirety, requiring FE PA to conform to the Commission's definition of confirmed low-income customer will help FE PA to better identify its low-income customers and ensure they can access important protections, including protection against winter terminations. *Id.* CAUSE-PA maintains that requiring FE PA to clearly outline criteria which would qualify for CLI definitions and the timeframe for retaining CLI definitions consistent with Commission regulations at Section 54.72 will help to provide important clarity related to protections afforded to FE PA's CLI customers. *Id.* CAUSE-PA concludes that these provisions reasonably balance the varied interests of the Settling parties, are reasonable, and should be approved without modification.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

1. Discussion and Recommendation

This provision addresses certain issues raised by CAUSE-PA with respect to FE PA's definition of "confirmed low-income." The determination of whether a customer is identified as CLI impacts security deposit requirements and utility assistance program eligibility. Requiring FirstEnergy to convene a collaborative at its next USAC to discuss its current definition of Confirmed Low-Income customers and revise its definition and time frame for CLI customer designation is in the public interest because it will lead to the adoption and implementation of important improvements to FE PA's policies related to the classification of confirmed low-income customers. Further, requiring FE PA to conform to the Commission's definition of confirmed low-income customer will help FE PA to better identify its low-income customers and ensure they can access important protections, including protection against winter terminations. Finally, requiring FE PA to clearly outline criteria which would qualify for CLI definitions and the timeframe for retaining CLI definitions will provide clarity and transparency for FE PA's CLI customers. As such, we recommend this Settlement term be approved as being in the public interest.

7. Complaint Handling and Analysis (Settlement ¶ 64)

a. FE PA

Paragraph 64 addresses FE PA's handling and analysis of customer complaints. Specifically, it requires that, within ninety days of the Commission's final order in this proceeding, FE PA will develop internal protocols for a regular and proper RCA of its complaint trends, both for internal disputes and BCS informal complaints that document infractions. Settlement ¶ 64. This provision was adopted in response to issues raised by OCA. OCA St. No. 6, at 31-33.

FE PA believes that this Settlement provision is reasonable because it is a continuation of FE PA's compliance with commitments made in the PA Consolidation to perform individual complaint investigations as well as a monthly review of root cause trends and addresses any internal issues related to the investigation findings. FE PA Statement in Support, p. 29; *see also* FE PA St. No. 8-R, at 33-34.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's complaint handling analysis. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA reports that, during the course of the proceeding, FirstEnergy admitted that it does not undertake a root cause analysis of customer complaints or BCS findings. OCA St. 6 at 31. Additionally, OCA notes FirstEnergy indicated that it had not conducted any analysis of “verified complaints” as reported by the BCS. *Id.*

OCA witness Alexander noted that the increase in customer complaints and PARs is a trend that appears to not currently be subjected to FirstEnergy’s evaluation or analysis. OCA St. 6 at 30. OCA witness Alexander further testified that the trend in lower “justified” complaints is not matched by the increase in “justified” PARs and that the volume of “verified infractions” does not reflect any substantive change. *Id.* at 30-31.

OCA witness Alexander recommended that FirstEnergy conduct a root cause analysis. OCA St. 6 at 33. A root cause analysis is a fact-based exercise in which the underlying cause or causes of an undesirable outcome(s) is identified and specific remedial steps are identified and determined to result in systematically correcting or improving the previously identified undesirable result. *Id.* at 31-32. A proper analysis of any “root cause” requires the identification of “symptoms,” which are not actual causes but signs of existing problems, and “first level causes,” which are the causes that directly lead to a problem; and “higher level causes,” which are links in the chain of cause-and-effect relationships that ultimately create the problem. *Id.* OCA witness Alexander noted that a list of customer complaints by category is not a root cause analysis. *Id.* at 31.

Under the terms of the Settlement, within 90 days of a final order in this proceeding, FirstEnergy will develop internal protocols for a regular and proper root cause analysis of its complaint trends, both for internal disputes and BCS informal

complaints that document infractions. Settlement ¶ 64. This plan will require a written root cause analysis, and report on findings, including identification of trends, evaluation, steps to reform or avoid repeated trends, and internal steps taken to take proper internal enforcement action where needed. Quarterly updates to include results will be provided to the statutory advocates until the Company's next base rate filing. *Id.*

The Settlement adopts OCA witness Alexander's recommendation that FirstEnergy conduct proper written root cause analysis of its complaint trends, both for internal disputes and BCS informal complaints that document infractions. *See* OCA St. 6 at 33. The Settlement also adopts OCA witness Alexander's recommendation that FirstEnergy's plan should require a root cause analysis and report on findings, including identification of trends, evaluation, steps to reform or avoid repeated trends, and internal steps taken to take proper internal enforcement action where needed with quarterly updates to stakeholders on the results. *See Id.* These Settlement provisions benefit ratepayers and are in the public interest.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in this proceeding related to Complaint Handling and Analysis issues set forth in Paragraphs 64 of the proposed Settlement.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

In paragraph 64,¹⁴ the Settlement provides that within ninety (90) days of the Commission's entry of a final order in this proceeding, FE PA will develop internal protocols for a regular and proper RCA of its complaint trends and will submit quarterly updates to statutory advocates and IBEW Local 777 until FE PA's next base rate filing. IBEW Local 777 submits that the RCA along with the mandatory reporting requirement is reasonable and in the public interest. IBEW Statement in Support, p. 4.

¹⁴ IBEW Local 777 inadvertently misidentified the Complaint Handling section of the Settlement as Paragraph 63, when it is in fact Paragraph 64.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

l. Discussion and Recommendation

These provisions pertain to FE PA's handling and analysis of customer complaints. Under the Settlement, FE PA will conduct a proper written root cause analysis of its complaint trends, both for internal disputes and BCS informal complaints that document infractions. Further, this root cause analysis will identify trends, detail steps to reform or avoid repeated trends, and document FE PA's efforts to take proper internal enforcement action where needed. These reports will be shared with stakeholders, which will increase accountability and transparency. As such, we find these Settlement terms to be in the public interest and recommend they be approved.

8. Practices, Procedures, and Notices (Settlement ¶¶ 65-67)

a. FE PA

Paragraphs 65-67 address FE PA's practices, procedures, and notices with respect to interacting with customers. Specifically, Paragraph 65 requires FE PA to ensure that: (a) all language reflects accurate requirements as required by statute or

regulation and consistent with Commission orders and formal policies, as well as the FE PA's tariffs; (b) FE PA's field representatives and customer service center representatives are provided with clear and robust directions for how to communicate with LEP customers; (c) all customers with income at or below 250% FPL receive protection from termination for nonpayment during the Winter Moratorium as required by statute or regulation and consistent with Commission orders and formal policies; (d) all guidance regarding the identification of "confirmed low-income" customers to conform with the Commission's regulations for electric distribution utilities, including as related to the waiver and/or refund of security deposits in such instances; (e) all guidance related to security deposits and the refund thereof; and (f) all customer notices and communications containing references related to medical certificate requirements to ensure they are compliant with all legal requirements. Settlement ¶ 65.

FE PA believes these provisions are reasonable because they address various issues raised by CAUSE-PA with respect to FE PA's administration of Universal Service Programs. FE PA Statement in Support, p. 30; *see also* CAUSE-PA St. No 1, at 60-64.

Paragraph 66 specifically requires FE PA to amend its tariff to advise that: (a) the Company will not require an applicant or customer to provide a cash deposit when the customer provides information which demonstrates that he or she qualifies as CLI; (b) that any customer who has previously posted a cash security deposit, and who is subsequently newly found to be exempt from a deposit demand will be refunded that deposit within thirty (30) days of identifying that customer as CLI; (c) security deposit refunds issued for confirmed low income customers will be made directly to the customer, unless FE PA obtains informed consent to apply the security deposit to the customer's account balance; and (d) these reviews and any associated revisions will be completed within twelve (12) months of the Commission's entry of a final order in this

proceeding and will be conducted in consultation with the BCS and FE PA's USAC. Settlement ¶ 66.

These provisions address several issues raised by CAUSE-PA with respect to FE PA's current cash security deposit practices, policies and procedures. CAUSE-PA St. No. 1, at 67-68. FE PA submits that this provision constitutes a reasonable compromise of the parties' competing litigation positions. FE PA Statement in Support, p. 31.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's practices, procedures, and notices. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA explains that the Commission's regulations prohibit a utility from assessing a security deposit on customers who have income at or below 150% of the federal poverty income guidelines. 52 Pa. Code § 56.41(4). In testimony, OCA witness Colton recommended that FirstEnergy should be directed to refund deposits for customers from whom the Company has received "income documents or other

information” indicating that the customer has income at or below 150% of the FPL. OCA St. 5 at 65-66. With a customer having provided the Company with sufficient information to lead FirstEnergy reasonably to find that customer to be low-income, OCA recommended that the Company should, at a minimum, provide notice to those Confirmed Low-Income customers of the potential for CAP enrollment, along with an explanation of arrearage forgiveness and its advantages as a “rate most advantageous to the patron.” OCA St. 5 at 56; 66 Pa.C.S. § 1303.

OCA further recommended in testimony that FirstEnergy should be ordered to refund any cash security deposit received from, or decline to impose a cash security deposit on, any customer who is currently categorized as “Confirmed Low-Income” or who is enrolled in a Tier 1 payment arrangement. OCA St. 5 at 66. OCA also recommended that FirstEnergy be directed to include in its tariff, and incorporate into its corresponding practices and procedures, that any customer who has previously posted a cash security deposit, and who is subsequently newly found to be low-income, is entitled to a refund of that deposit at the time they are newly recognized as being low-income. *Id.* at 67. OCA recommended that FirstEnergy include in its tariff the April 2024 order of the Commission, directing that the Company may apply an existing security deposit to the account balance only with the customer’s informed consent. OCA St. 5 at 67. As part of obtaining this informed consent, OCA recommended that FirstEnergy must explain to the customer how applying the security deposit to the account balance would impact the customer’s monthly bill. *Id.* Lastly, OCA recommended that, within three months after a final order in this proceeding, FirstEnergy should undertake a review of all customers from whom the Company currently holds deposits to determine whether they qualify for the exemption, and to make necessary refunds. OCA St. 5 at 67. OCA further noted that FirstEnergy should report the results of this review to BCS as well as to its Universal Service Advisory Group. *Id.*

Under the terms of the Settlement, FirstEnergy will undertake a review of all policies, procedures, and training materials for revision, where appropriate, to ensure that: all guidance regarding the identification of “confirmed low-income” customers to conform with the PUC’s regulations for electric distribution utilities, including as related to the waiver and/or refund of security deposits in such instances, and all guidance related to security deposits and the refund thereof. Settlement ¶ 65.d. Moreover, FirstEnergy will amend its tariff regarding cash security deposits to advise that: the Company will not require an applicant or customer to provide a cash deposit when the customer provides information which demonstrates that he or she qualifies as CLI, and; that any customer who has previously posted a cash security deposit, and who is subsequently newly found to be exempt from a deposit demand will be refunded that deposit within 30 days of identifying that customer as CLI. Settlement ¶ 66. Security deposit refunds issued for confirmed low-income customers will be made directly to the customer, unless FE PA obtains informed consent to apply the security deposit to the customer’s account balance. *Id.*

FirstEnergy’s commitment to review all policy, procedures, and training, including in the area of security deposits, is a step in the right direction in ensuring that FirstEnergy is in full compliance with the Public Utility Code and the Commission’s regulations. OCA explains that committing to a tariff amendment regarding cash security deposits to advise that the Company will not require an applicant or customer to provide a cash deposit when the customer provides information which demonstrates that he or she qualifies as CLI, and that any customer who has previously posted a cash security deposit, and who is subsequently newly found to be exempt from a deposit demand will be refunded that deposit within 30 days of identifying that customer as CLI is a significant improvement over the status quo. FirstEnergy’s commitment to review all policy, procedures, and training related to the security deposit and its commitment to amend its tariff are, OCA argues, in the public interest.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

Review of Policies, Procedures, and Training Materials

CAUSE-PA raised concerns that FE PA's notices to residential customers do not accurately reflect medical certificate requirements set forth by statute and Commission regulation. CAUSE-PA St. 1 at 60-61. CAUSE-PA's witness, Mr. Geller, explained that the plain language of FE PA customer notices communicates that customers "are required to make payment on their accounts, or an equitable arrangement to pay on their accounts, before they are able to access any medical certificates." *Id.* at 61.

Mr. Geller also raised concerns that FE PA is not adequately engaging with limited English proficient (LEP) customers to provide these customers with essential information related to their services. *Id.* at 62. Mr. Geller further explained that FE PA appears to be terminating confirmed low-income customers for nonpayment during the winter moratorium. *Id.* at 64. Finally, Mr. Geller explained that FE PA's methods of tracking confirmed low income-customers detrimentally impacts the ability of customers to access certain protections, including the exemption of low-income customers from collection of security deposits. *Id.* at 67.

To remedy these inadequacies in customer communications, Mr. Geller recommended a number of reforms to FE PA's policies, procedures, and customer

notifications. More specifically, Mr. Geller recommended that FE PA undertake a review of all customer communication and notices, and make appropriate revisions to medical certificate language to accurately reflect statutory and regulatory requirements. CAUSE-PA St. 1 at 62. Mr. Geller also recommended that FE PA be required to revise its definition of confirmed low-income customers, and its policies and procedures related to providing confirmed low-income customers with winter moratorium protections. *Id.* at 66. Mr. Geller also set forth detailed recommendations to improve FE PA's policies and procedures related to LEP customers and security deposits. *Id.* at 62-64.

Paragraph 65 of the proposed Settlement provides that FE PA will undertake a review of all policies, procedures, and training materials for revision, where appropriate. CAUSE-PA argues the provisions of Paragraph 65 of the proposed Settlement are reasonable and should be approved without modification. CAUSE-PA Statement in Support, p. 28. CAUSE-PA argues that requiring FE PA to revise its policies and procedures so that its field representatives and customer service representatives are provided with clear and robust direction for communicating with LEP customers will help to ensure that FE PA's field and customer service representatives are applying consistent and transparent standards when they encounter LEP customers. *Id.*

CAUSE-PA further argued that requiring FE PA to undertake a review and revision of communications related to medical certificates to ensure compliance with legal requirements will help to ensure that FE PA makes appropriate revision to medical certificate requirements in notices and other customer communications in compliance with statutory and regulatory requirements. *Id.*

CAUSE-PA maintains that, in conjunction with the requirements in Paragraph 63 of the proposed Settlement, Paragraph 65 of the proposed Settlement will also help to ensure that FE PA's identification of "confirmed low-income" customers

conforms with the Commission's regulations. *Id.* In addition, CAUSE-PA argues that Paragraph 65 helps to ensure that customers at or below 250% FPL are not improperly terminated for nonpayment during Winter Moratorium. *Id.* CAUSE-PA explains that these provisions reasonably address Mr. Geller's concerns that FE PA improperly terminates low-income customers during the Winter Moratorium, as detailed above. *Id.* at 28-29.

Finally, CAUSE-PA notes that the proposed Settlement also requires FE PA to revise its tariff language to ensure that its policies related to security deposits for low-income customers are in compliance with statutory and regulatory requirements. CAUSE-PA argues that the provisions contained with Paragraph 65 will help to ensure that FE PA's policies, procedures, and training materials similarly comport with statutory and regulatory requirements related to security deposits. *Id.* at 29.

Security Deposits Protections, Low Income Customers

CAUSE-PA points out that Section 56.32(e) of the Commission's regulations prohibits utilities from collecting security deposits from customers who are confirmed to be income eligible for its customer assistance programs. 52 Pa. Code § 56.32(e); CAUSE-PA St. 1 at 67. CAUSE-PA explains that the Commission has issued explicit guidance on this issue and was clear that a low-income household does not need to enroll in CAP or another universal service program for the prohibition on security deposits to apply. *Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Ch. 14*, L-2015-2508421, Final Rulemaking Order, Attach. One at 48 (Feb. 28, 2019); CAUSE-PA St. 1 at 67. CAUSE-PA further notes that the Commission also requires both verbal notice of the exemption to be provided to applicants and customers *at the time the security deposit is assessed*, as

well as instructions for how the applicant or customer can verify income. 52 Pa. Code §§ 56.36, 56.286. CAUSE-PA St. 1 at 67.

Mr. Geller explained that FE PA's methods of tracking confirmed low-income customers detrimentally impacts the ability of customers to access certain protections, including the exemption of low income customers from collection of security deposit. CAUSE-PA St. 1 at 67. Mr. Geller recommended that FE PA revise its definition and identification of confirmed low-income customers and apply security deposit exemptions in all circumstances where a customer has indicated low-income status. *Id.* at 68. Mr. Geller further recommended that FE PA be required to develop an automated process to immediately refund all security deposits to confirmed low-income customers. *Id.* at 68.

Paragraph 66 of the proposed Settlement provides that FirstEnergy will amend its tariff regarding cash security deposits to advise that (a) FE PA will not require applicants/customers to provide cash deposits when they provide information demonstrating that they qualify as a confirmed low-income customers; and (b) any customer who previously posted a cash security deposit, and subsequently found exempt from a deposit demand, will be refunded that deposit within 30 days of identifying the customer as confirmed low-income. These provisions at Paragraph 66(b) further provide that these refunds will be made directly to the customer, unless FE PA obtains informed consent to apply the security deposit to the customer's account balance. Finally, Paragraph 67 provides that the associated review and revision will be completed within 12 months of the final order in this proceeding, and will be conducted in consultation with BCS and FE PA's USAC.

CAUSE-PA asserts that the provisions contained in Paragraphs 66-67 of the proposed Settlement represent important improvements to FE PA's policies and

procedures related to waiver and return of security deposits for low income customers, and should be approved. CAUSE-PA Statement in Support, p. 30. CAUSE-PA argues that these provisions provide important clarity related to FE PA's policies and procedures for exempting and returning security deposits to its low-income customers. *Id.* at 30-31. CAUSE-PA posits that requiring FE PA to obtain informed consent before applying security deposits to account balances will help to ensure that FE PA's low-income customers are able to make an informed decision whether deposits are refunded or applied to their accounts. *Id.* Finally, CAUSE-PA avers that requiring FE PA to make revisions associated with these provisions in consultation with BCS and FE PA's USAC will help FE PA to obtain important feedback related to whether their policy revision are appropriate, and in compliance with statute, regulation, and Commission directives. *Id.* at 31. For these reasons, CAUSE-PA agrees that the provisions contained in Paragraphs 66-67 of the proposed Settlement are reasonable, in the public interest, and should be approved without modification.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

l. Discussion and Recommendation

These settlement terms address various concerns raised by CAUSE-PA regarding FE PA's current cash security deposit practices, policies and procedures. Under the Settlement, FE PA agrees to review all policy, procedures, and training, including in the area of security deposits, which will help ensure that FirstEnergy is in full compliance with the Public Utility Code and the Commission's regulations. Further,

FE PA agrees to amend its tariff to clearly indicate that the Company will not require an applicant or customer to provide a cash deposit when the customer provides information which demonstrates that he or she qualifies as CLI, and that any customer who has previously posted a cash security deposit, and who is subsequently newly found to be exempt from a deposit demand will be refunded that deposit within 30 days of identifying that customer as CLI. This will help ensure FE PA's procedures and tariff provisions are consistent with Commission regulations and benefit the low-income customers to which it is targeted.

Further, FE PA agrees to ensure its field representatives and customer service representatives are provided with clear and robust direction for communicating with LEP customers, which will improve FE PA's customer service by increasing consistency and transparency.

FE PA also agrees to undertake a review and revision of communications related to medical certificates which will help ensure compliance with statutory and regulatory requirements.

All of these Settlement terms provide greater clarity of and more consistent application of FE PA's policies and procedures and should be approved as being in the public interest.

9. Language Access (Settlement ¶ 68)

a. FE PA

Paragraph 68 addresses the Company's language access procedures when dealing with LEP customers. Specifically, this provision requires FA PA to provide its

field representatives with a card in English and Spanish that field representatives can share with customers to facilitate a response to questions to confirm whether there is a medical condition in the service location, whether a protection from abuse order or other court order with evidence of domestic violence is in effect, or, in winter months (December 1 to March 31), whether the household's income is at or below 250% FPL, thus triggering additional protections at the service location. Settlement ¶ 68.

This provision was agreed to in order to address concerns expressed by CAUSE-PA. CAUSE-PA St. No. 1, at 63-64. FE PA submits that this provision constitutes a reasonable compromise of the parties' competing litigation positions. FE PA Statement in Support, p. 31.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's language access. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA did not specifically address this Settlement term in its Statement in Support.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA raised concerns that FE PA's customers with LEP are not provided with sufficient and accessible information by field representatives. CAUSE-PA St. 1 at 62-63. In particular, CAUSE-PA argued that FE PA's training materials do not detail how field representatives should communicate with LEP customers, the availability of translation or interpretation services, or how they provide adequate information to ensure that LEP customers can learn about imminent terminations, and their right and protections related to the same. *Id.*

CAUSE-PA's witness, Mr. Geller, recommended that FE PA be directed to undertake a full review of its policies, procedures, and attendant training materials, to ensure that FE PA's field representatives are provided with clear and robust directions for how to communicate with LEP customers. CAUSE-PA St. 1 at 64. Mr. Geller recommended that these revisions include, whenever a field representative is not fluent in a customer's preferred language, how the field representative can access telephonic interpretational services utilized by FE PA. *Id.*

Paragraph 68 of the proposed Settlement requires that FE PA, beginning no later than March 1, 2025, provide its field representatives with a card in English and Spanish that field representatives can share with customers to facilitate a response to questions to confirm whether there is a medical condition in the home, whether a protection from abuse order or other court order with evidence of domestic violence is in

effect, or in winter months (i.e. from December 1 to March 31) whether the household's income is at or below 250% FPL – thereby triggering additional protections at the service location. These cards will be in plain language and will include a phone number consumers can call for direct translation and interpreter services.

CAUSE-PA argues that these provisions of the proposed Settlement represent a compromise that reasonably balances the varied interests of the Settling parties. CAUSE-PA notes that, while Mr. Geller's recommendations were not adopted in their entirety, these provisions will require FE PA to provide its field representatives with new tools to communicate with LEP customers in the field. CAUSE-PA Statement in Support, p. 32. CAUSE-PA maintains that requiring FE PA to provide its field representatives with cards in English and Spanish will help LEP customers to better learn about their rights and protections related to service termination, and how to access direct translation and interpretation services to discuss their accounts. *Id.* CAUSE-PA submits that these provisions also provide important clarity to FE PA's current policies and procedures related to field representative interaction with LEP customers. *Id.* Therefore, CAUSE-PA argues these proposed Settlement provisions are reasonable, in the public interest, and should be approved without modification.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

l. Discussion and Recommendation

These provisions were included in the Settlement in response to concerns expressed by CAUSE-PA. Under the Settlement, FE PA will provide its field representatives with new tools to communicate with LEP customers in the field, specifically cards in English and Spanish, which will help LEP customers to better learn about their rights and protections related to service termination, and how to access direct

translation and interpretation services to discuss their accounts. Further, these provisions clarify FE PA's current policies and procedures related to field representative interaction with LEP customers. As such, we recommend these Settlement terms be approved as being in the public interest.

10. Analytic Technologies (Settlement ¶ 69)

a. FE PA

Paragraph 69 of the settlement addresses the Company's use or future use of speech analytics software, artificial intelligence, and similar technologies to assist with monitoring, or involving, universal service programs and other low-income customers. Specifically, Paragraph 69 requires FE PA to include a standing topic on its USAC meeting agenda through the filing of its next base rate case regarding the same, which IBEW Local 777 will receive. Settlement ¶ 69.

This provision was adopted to address certain concerns voiced by OCA. OCA St. No. 5, at 56-61. FE PA does utilize speech analytics, but recognizes that the technology is still a work in progress that should be reviewed carefully for expanded or new uses. FE PA Statement in Support, p. 31. FE PA submits that this provision constitutes a reasonable compromise of the parties' competing litigation positions. *Id.*

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's analytic technologies. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this

proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

Currently, FirstEnergy primarily uses NICE Enlighten AI and NICE CXOne (collectively, NICE) to determine customer pain points during significant call volume spikes or during other market disruptor scenarios. OCA St. 5 at 57-58. While FirstEnergy is changing software providers, FirstEnergy stated that it plans to expand its use of speech analytics in the future. *Id.* at 58.

OCA recommended that FirstEnergy utilize its current speech analytics software to identify customers who may be payment troubled. OCA St. 5 at 56. OCA witness Colton testified that FirstEnergy should be able to use the software currently employed to review call center conversations, NICE, to identify keywords which might indicate that a customer calling into the call center is payment troubled. *Id.* at 57.

OCA witness Colton testified that speech pattern analytics could also be used to determine whether calls to the FirstEnergy call center are handled properly for purposes of identifying Confirmed Low-Income customers and customers who would benefit from enrollment in the Company's universal service programs. OCA St. 5 at 59-60. Terms, phrases and speech patterns associated with low-income status, payment difficulties, unaffordability, or seeking low-income assistance for energy or other life necessities (e.g., food, housing, medical care) could be identified such that FirstEnergy could search for them to identify universal service calls. *Id.* at 60. Proper handling

would include approving delays in collection activities pending applications for and approval of program enrollment; identification in the Company's information technology of Confirmed Low-Income customers; and extending available low-income protections. *Id.*

According to FirstEnergy "FE PA has not had any applicable charges associated with software modifications as it pertains to phrases, terms or other speech patterns searched because new searches are created with each request and there is no cost associated with this." OCA St. 5 at 59; OCA Exh. RDC-5. Therefore, OCA recommended that FirstEnergy be directed to extend the use of its speech analytics software to assist with the monitoring of phone calls involving, or potentially involving, universal service programs and other low-income customers. OCA St. 5 at 61. OCA further recommended that FirstEnergy should be directed to involve its USAC in the identification and selection of Low-Income and Universal Service Terms to be detected by the system in order to confirm that phone calls are properly being identified and handled. *Id.* Moreover, OCA recommended that regular six-month reports on the results of the Speech Analytics reviews should be provided to the USAC. *Id.*

Under the terms of the Settlement, FirstEnergy will include a standing topic on its USAC meeting agendas through the filing of its next base rate proceeding related to the possible development and use of speech analytics software, artificial intelligence, and other such technologies to assist with the monitoring of phone calls involving, or potentially involving, universal service programs and other low-income customers. Settlement ¶ 69. Following OCA's settlement discussions with the Company, including speech analytics, artificial intelligence, and other such technologies in FirstEnergy's next USAC represents a reasonable compromise regarding a cutting-edge technological issue that can provide benefits to Pennsylvania's ratepayers. This Settlement provision is the result of compromise involving an evolving field of technology. OCA Statement in

Support, p. 29. Given the continued improvement in the areas of speech analytics and artificial intelligence, including a standing topic in FirstEnergy's USAC is in the public interest. *Id.*

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in this proceeding related to the Analytic Technology issues set forth in Paragraphs 69 of the proposed Settlement.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

In paragraph 69¹⁵ of the Settlement, FE PA commits to including a standing topic on its USAC meeting agendas through the filing of its next electric distribution rate proceeding related to the possible development and use of speech analytics software, artificial intelligence, and other such technologies to assist with the monitoring of phone call involving, or potentially involving, universal service programs and other low-income customers. As IBEW Local 777 explains, in its capacity as the exclusive bargaining agent for nearly 100 CRSs within the FE PA footprint, it is uniquely positioned to provide insight and practical considerations for the gradual adoption and implementation of analytic technologies, and as such, it is in the public interest that IBEW Local 777 be part of that conversation. IBEW Local 777 Statement in Support, p. 5. The Settlement provides that IBEW Local 777 will receive USAC meeting agendas and will be considered an interested party with respect to discussions pertaining to Analytic Technologies. Therefore, IBEW Local 777 submits that paragraph 69 is reasonable and in the public interest. *Id.*

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

¹⁵ IBEW Local 777 inadvertently misidentified the Analytic Technologies section of the Settlement as Paragraph 67, when it is actually Paragraph 69.

1. Discussion and Recommendation

This provision was adopted to address certain concerns voiced by OCA. Under the Settlement, FE PA include a standing topic on its USAC meeting agendas related to the possible development and use of speech analytics software, artificial intelligence, and other such technologies to assist with the monitoring of phone calls involving, or potentially involving, universal service programs or low-income customers. New and developing technologies may assist in the identification of customers who may qualify for low-income programs and protections, and this Settlement term ensures it remains a topic of conversation for FE PA, and its stakeholders, including IBEW Local 777. As such, we find it is in the public interest and recommend it be approved.

11. Reconnection Fees (Settlement ¶ 70)

a. FE PA

Paragraph 70 addresses the Company's practice and procedure with respect to applying Hardship Funds to reconnection fees. Specifically, it requires FE PA to allow Hardship Funds to be used for the purposes of payment of reconnection fees for all confirmed low-income customers, and that reconnection fees will not be required to be paid upfront by CAP participants in order for reconnection of services. Settlement ¶ 70. This provision was agreed to in order to address issues raised by CAUSE-PA and OCA. CAUSE-PA St. No. 1, at 68-71; OCA St. No. 5, at 53-55. FE PA submits that this provision constitutes a reasonable compromise of the parties' competing litigation positions. FE PA Statement in Support, p. 32.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Customer Service and Universal Service Issues which include FirstEnergy's reconnection fees. However, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Customer Service and Universal Service Issues, which is in the public interest. I&E Statement in Support, p. 29.

c. OCA

OCA did not specifically address this Settlement term in its Statement in Support.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA explains that, pursuant to the requirements in the Joint Petition of FE PA's predecessor Companies for Approval of Their Involuntary Remote Disconnect Procedures, at Docket Nos. P-2019-3013979, et al, Paragraph 35.n., FE PA agreed to perform an analysis of the changes in costs as a result of performing remote terminations and reconnections and propose an appropriate reconnect fee based on actual

costs during its next base rate proceeding. CAUSE-PA St. 1 at 68-69. CAUSE-PA notes that FE PA initially proposed a reconnection fee across its Rate Districts of \$15. *Id.* at 69. Mr. Geller opposed FE PA's proposal and explained that confirmed low-income and PCAP customers are terminated for nonpayment at far greater rates compared to residential customers as a whole. *Id.* at 69-70. CAUSE-PA explains that FE PA's low-income customers are subsequently able to reconnect to services at far lower rates compared to residential customers as a whole, but FE PA's reconnection fees pose substantial and punitive barriers for low-income customers to reestablish service. *Id.* at 70-71. CAUSE-PA argued that FE PA should be required to waive reconnection fees for all confirmed low-income customers. *Id.* at 71.

Paragraph 70 of the proposed Settlement provides that, within 6 months following approval of a final order in this proceeding, FE PA will begin allowing hardship funds to be used for purposes of payment of reconnection fees for all confirmed low-income customers. This Paragraph further provides that, for PCAP participants seeking to reconnect service following an involuntary termination, reconnection fees will not be required to be paid upfront as a condition of reconnection and will be added to any remaining pre-program arrearages upon reenrollment in the program. Finally, this Paragraph provides that any associated tariff revisions pursuant to the Paragraph will be completed within 12 months of the Commission's entry of a final order in this proceeding.

CAUSE-PA argues that the proposed Settlement provisions at Paragraph 70 reasonably balance the interests and positions of the Settling parties in this proceeding. CAUSE-PA submits that requiring FE PA to accept hardship funding for the purposes of paying reconnection fees for confirmed low-income customers, and waiving reconnection fees for PCAP customers by instead adding these fees as deferred arrears on reenrollment, will help low-income customers to reconnect to services without facing

restrictive barrier posed by reconnection fees. CAUSE-PA Statement in Support, p. 34. CAUSE-PA maintains that these provisions reasonably address Mr. Geller's concerns. *Id.* Therefore, CAUSE-PA asserts that these provisions are reasonable, in the public interest, and should be approved without modification.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

l. Discussion and Recommendation

This provision was included in the Settlement to address issues raised by CAUSE-PA and OCA. Under the Settlement, FE PA agrees to accept hardship funding for the purposes of paying reconnection fees for confirmed low-income customers, and waiving reconnection fees for PCAP customers by instead adding these fees as deferred arrears on reenrollment. This will help low-income customers more easily reconnect to utility service without necessarily facing the financial barrier of additional, unaffordable fees. As such, we recommend this term be approved as it is in the public interest.

H. Additional Provisions (Settlement ¶¶ 71-73)

1. Reliability and Operations (Settlement ¶ 71)

a. FE PA

FE PA's initial filing discussed the Company's O&M expenses related to improving the Company's service reliability, including an enhanced vegetation

management program. FE PA St. No. 2, at 10-13, 15, 18-21. I&E and OCA opposed the Company's proposed enhanced vegetation management program. I&E St. No. 4, at 50-51; *see also* OCA St. No. 7, at 41-42. OCA also proposed that the Company's implement a number of initiatives and reporting requirements related to improving the Company's service reliability. *See* OCA St. No. 7, at 56-59. IBEW Local 777 supported the enhanced vegetation management program, but also made several recommendations regarding the FE PA's (and specifically the Met-Ed Rate District's) internal field hiring practices and attrition rates. *See* IBEW-7, at 7, 13-14.

As explained in the rebuttal testimony of FE PA witness Mr. Hawkins, FE PA acknowledges that there is room to improve its reliability performance. FE PA St. No. 12-R, at 6. In addition, FE PA has recognized that outages caused by vegetation are a primary driver of outages and a primary driver of the reliability performance concerns identified by the parties. FE PA St. No. 1, at 9; FE PA St. No. 2 at 9-10.

Paragraph 71 of the Settlement sets forth a number of commitments addressing FE PA's service reliability performance and operations. Settlement ¶ 71. Specifically, Paragraph 71 sets forth commitments by FE PA to increase internal field hires, complete a review of its distribution system for opportunities to introduce projects to selectively underground facilities, and improve its reliability performance with respect to SAIDI and SAIFI in three years. Settlement ¶ 71.

FE PA argues this Settlement provision evidences FE PA's commitment to ensure that it maintains a workforce sufficient to maintain and improve the reliability of its system, continue to make capital investments to improve the reliability of its distribution system, and to report upon and achieve measurable improvements to the reliability of its service. FE PA Statement in Support, p. 33. Therefore, FE PA submits

that this provision is in the public interest and should be approved without modification. FE PA Statement in Support, p. 33.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Reliability and Operations issues. I&E Statement in Support, p. 30. Nevertheless, I&E shares the concerns of the interested Joint Petitioners. I&E Statement in Support, p. 30. Further, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. I&E Statement in Support, p. 30. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as it is a full and fair compromise that provides FirstEnergy, the Joint Petitioners, and the Commission with regulatory certainty and an amicable resolution of the Reliability and Operations issues, which is in the public interest. I&E Statement in Support, p. 30-31.

c. OCA

In its filing the Company proposed a ten-year enhanced vegetation management program at an annual cost of \$92,846,000. OCA St. 1 at 45. The Company stated that it is currently spending approximately \$100 million annually on vegetation management. The Company stated that the enhanced program would focus on widening existing rights-of-way (ROW), removal of overhanging limbs and brush, and seeking to more proactively target on and off ROW trees. *Id.* at 46. OCA witnesses Rao Konidena and Dante Mugrace both expressed numerous concerns about the Company's proposal. *See* OCA St. 1; OCA St. 7.

Mr. Konidena reviewed each of the rate district's reliability performance over the last several years, based on the SAIFI, SAIDI and CAIDI standards, and found that the FirstEnergy rate districts consistently performed at the bottom or near bottom in every category as compared to other Pennsylvania EDCs. OCA St. 7 at 24-25. Mr. Konidena also found that for each rate district the number one cause of outages continues to be off-ROW trees. *Id.* at 22. As proposed, the enhanced vegetation management plan includes proactively targeting these off-ROW trees, and yet as Mr. Konidena testified, the Company has no identifiable plan as to how this is going to be accomplished by simply spending more money. *Id.* at 34-35.

Based on the amount of ratepayer dollars already being spent on vegetation management, and the lack of any notable reliability improvements, Mr. Konidena recommended that in conjunction with any increase in this expenses that the Company should look to selective undergrounding of problem circuits. *Id.* at 35-36. Further, Mr. Konidena testified that the Company's proposed ten-year plan should not be approved, as there is no guarantee that reliability will improve nor is there any planned checks along the way to see if the plan is actually working. *Id.* at 40-42. In conjunction with Mr. Mugrace, Mr. Konidena recommended that approximately one half of the proposed budget be authorized in this proceeding, with reporting requirements to the Commission and other stakeholders to measure whether this enhanced plan is providing any benefits to ratepayers in terms of fewer outages and better overall reliability. *Id.*

Mr. Mugrace testified that the Company's actual spending over the last five years has varied widely, from a high of \$125,298,815 to a low of \$38,455,690. OCA St. 1 at 47. Mr. Mugrace went on to testify that the current level of spending has not seemed to improve either FirstEnergy's poor reliability metrics or reduced the number of outages. *Id.* at 48. In conjunction with the findings of OCA witness Konidena, the proposed increased level of spending may not produce any better reliability performance,

considering the Company's current efforts. *Id.* Based on Mr. Mugrace's and Mr. Konidena's analysis, Mr. Mugrace recommended that the Company be allowed to include one half of its proposed vegetation management increase, or \$46,423,000. *Id.* at 47.

In order to settle this issue, the expense associated with enhanced vegetation management is included in the overall \$225 million revenue increase that the Parties agreed to. In relevant part to the issues raised by OCA, the Company agreed to the following:

- b. FE PA will complete a review of its distribution system for opportunities to introduce projects to selectively underground facilities by December 31, 2025. Upon completion of this review, FE PA agrees to propose modifications to its Long Term Infrastructure Improvement Plan filed at Docket No. P-2024-3050269 ("LTIIIP III") to incorporate select projects identified as opportunities where largest impacts can be delivered.
- c. FE PA commits to a cumulative improvement in reliability that results in a reduction of the weighted average System Average Interruption Duration Index ("SAIDI") by 3.5% and System Average Interruption Frequency Index ("SAIFI") by 2.5% after three (3) years following the effective date of rates implementing the base electric distribution revenue increase provided for in this Settlement.
- d. The improvements to SAIDI and SAIFI contemplated by subparagraph (c) above will be measured using actual year-ended December 31, 2027 performance results as compared to the three-year averages as published in the 2023 PUC Electric Reliability Report results, assuming similar weather for that three-year average time period.
- e. Consistent with subparagraphs (c) and (d) above, FE will provide an annual report to the parties detailing its performance improvement data reflected in the

same terms as will be measured for compliance, by no later than April 1 each year.

- f. If year-end December 31, 2027 performance does not reflect at least 75% achievement of the reliability improvement goals set forth in subparagraph (c) above, the Company will convene a meeting of the Parties to this proceeding following its report due April 1, 2028, in order to (i) discuss the reasons why the reliability improvement goals have not been achieved, and (ii) outline its plan to ensure it remains on track to achieve the stated goals.

Settlement ¶¶ 71, b, c, d, e, f.

These provisions of the Settlement address the main issues that OCA raised regarding the Company's proposed enhanced vegetation management plan, and the current state of the Company's reliability performance. OCA Statement in Support, p. 32. The annual reporting will also give all Parties the ability to measure and track the Company's progress in reducing the number of outages and any progress towards improving its reliability metrics. *Id.* OCA submits these commitments are an important step forward for FirstEnergy's customers and should be approved. *Id.*

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in this proceeding related to the Reliability and Operations issues set forth in Paragraphs 71 of the proposed Settlement.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

The Settlement provides that FE PA will increase its internal field hires such that it will replace the prior year's attrition level plus ten percent, on a Rate District basis further divided proportionally by local, beginning January 1, 2025 (for 2024 attrition) for a period of five (5) years or until its next base rate proceeding, whichever happens first. IBEW Local 777 argues that this provision, while still woefully inadequate, is a step in the right direction in addressing FE PA's overreliance on expensive contract labor. IBEW Local 777 Statement in Support p. 5.

IBEW Local 777 notes that its witness, Mr. Kline, testified that contractor crews are an expensive, inefficient, and over-utilized source of labor within the FE PA footprint. IBEW Local 777 Statement in Support, p. 5. IBEW Local 777 maintains that

contractor crews routinely overstaff their crews, sending between three to five additional men per crew than FE PA crews, and thus charge a correspondingly higher rate to complete the exact same job. IBEW Local 777 Statement in Support, p. 5. IBEW Local 777 further argues that contractors maintain office space and full-time employees at FE PA's building—rent free—to complete oversight, engineering, and administrative tasks. *Id.* IBEW Local 777 avers that contractors are held to less stringent training and certification standards than FE PA employees, making them a suboptimal source of labor. *Id.* at 5-6.

IBEW Local 777 explains that the compromise found in paragraph 69 of the Settlement is a first step in addressing FE PA's overreliance on contracted labor by increasing FE PA's internal workforce. IBEW Local 777 Statement in Support, p. 6. IBEW Local 777 explains that, once at sufficient staffing levels, FE PA can transition more of its labor projects to internal crews, passing significant cost-savings onto ratepayers. *Id.* As such, IBEW Local 777 submits that this provision is in the public interest and encourages its approval by the ALJs and Commission. *Id.*

j. IBEW Local 459

IBEW Local 459 explains that it intervened in this case due to concerns over what it believes are significant manpower shortages at FE PA, particularly the shortage of qualified linemen. IBEW Local 459 Statement in Support, p. 1. IBEW Local 459 argues this manpower shortage negatively impacts electric distribution reliability, service, and safety, and results in FE PA's costly reliance on expensive outside contractors. *Id.* IBEW Local 459 submits that the Settlement provides a firm commitment by FE PA to increase its internal workforce numbers over a five-year period or until the next rate case, and this commitment serves the public interest as an increased workforce will help improve reliability, service, and safety. *Id.* IBEW Local 459 further

explains this Settlement provision will also help to reduce the Company's reliance on expensive outside contractors. *Id.* IBEW Local 459 argues the Settlement is in the public interest and should be approved.

k. UWUA Local 102

In the Settlement, FE PA firmly commits to growing the internal workforce by replacing year over year attrition plus 10% each year for a period of five (5) years or until the next rate proceeding. As such, the Settlement serves the public interest in myriad respects. UWUA Local 102 Statement in Support, p. 1.

First, UWUA Local 102 argues that increasing the size of its qualified internal workforce will improve safety for the public at large and the hardworking men and women who work for First Energy. For instance, infrastructure will be maintained and safely installed, and employees will be safer on the job. UWUA Local 102 Statement in Support, p. 1.

Second, UWUA Local 102 maintains that it will improve service reliability as a larger workforce will be able to more readily respond to issues that arise as well as ensuring proper installation, maintenance, and servicing of new and existing infrastructure. UWUA Local 102 Statement in Support, p. 1. Third, UWUA Local 102 explains that a larger internal workforce will necessarily reduce and curtail First Energy's utilization of expensive, and frequently, less qualified outside contractors. *Id.* UWUA Local 102 posits that a less expensive, more qualified workforce benefits the rate-paying public because it keeps labor costs at a fair and reasonable level. *Id.* at 1-2. Finally, UWUA Local 102 argues that increasing staffing levels will alleviate some of the strain and demands placed on the existing workforce who the public depends upon for critical infrastructure. *Id.* at 2. UWUA Local 102 argues the Settlement should be approved.

1. Discussion and Recommendation

FE PA makes a variety of commitments in Settlement ¶ 71 to address the concerns raised by multiple parties.

FE PA's commitment to increase its internal field hires as described in Settlement ¶ 71(a) will address the concerns raised by IBEW Local 777, IBEW Local 459, and UWUA Local 102 that FE is over-reliant on contracted labor. FE PA's commitment to increase its internal workforce will ensure that properly trained individuals are completing infrastructure projects safely and properly, and at a cost less than what FE PA pays for contracted labor. These cost savings will be passed on to ratepayers. Therefore, this settlement provision is in the public interest.

In its filing the Company proposed a ten-year enhanced vegetation management program at an annual cost of \$92,846,000. OCA St. 1 at 45. OCA's witnesses objected to this plan due to concerns that FE PA consistently had poor performance with regards to service outages, and that the number one cause of outages was off-ROW trees. OCA's witnesses were concerned that simply spending more money on vegetation management would not be a long-term solution to ensure reliable service for FE PA's customers.

In the Settlement, the Joint Petitioners compromised such that the expense associated with enhanced vegetation management is included in the overall \$225 million revenue increase to which the Parties agreed, but FE PA agrees to complete a review of its distribution system for opportunities to introduce projects to selectively underground facilities by December 31, 2025, and upon completion of this review, FE PA agrees to propose modifications to its "LTIP III" to incorporate select projects identified as

opportunities where largest impacts can be delivered. Further, FE PA commits to a cumulative improvement in reliability that results in a reduction of the weighted average SAID by 3.5% and SAIFI by 2.5% after three (3) years, and FE PA will provide an annual report to the parties detailing its performance improvement data reflected in the same terms as will be measured for compliance, by no later than April 1 each year. If the performance does not reflect at least 75% achievement of the reliability improvement goals, the Company will convene a meeting of the Parties to this proceeding following its report due April 1, 2028, in order to (i) discuss the reasons why the reliability improvement goals have not been achieved, and (ii) outline its plan to ensure it remains on track to achieve the stated goals. Settlement ¶¶ 71, b, c, d, e, f.

These provisions will ensure FE PA has an adequate vegetation management budget while taking steps to ensure long-term service reliability and performance. Exploring opportunities to underground facilities will eliminate the possibility of service interruptions due to trees (both inside and outside the ROW) falling on the lines. Further, the annual reporting will give all Parties the ability to measure and track the Company's progress against quantifiable and concrete metrics, which increases transparency and accountability. As such these Settlement terms are in the public interest.

2. Non-Basic Service (Settlement ¶ 72)

a. FE PA

OCA raised concerns regarding FE PA's marketing and inclusion of non-basic service charges on residential customer bills. OCA St. No. 4, at 37-41. FE PA witness Mr. Jones testified that FE PA complies with all applicable regulations and requirements regarding the provision of non-basic services to customers, including the

presentation of the charges on customers' bills and termination notices and in how the programs are marketed to customers. FE PA St. No. 8-R, at 54-58. Mr. Jones responded to each of the concerns raised by OCA witness Ms. Alexander regarding non-basic services provide by FE PA. FE PA St. No. 8-R, at 54-60.

Paragraph 72 of the Settlement resolves all issues related to FE PA's marketing and inclusion of non-basic service charges on residential customer bills. Settlement ¶ 72. While the terms of this provision go beyond what is required under the Commission's regulations regarding the marketing and inclusion of non-basic service charges on residential customer bills, FE PA submits that this resolves OCA's concerns regarding FE PA's marketing and inclusion of non-basic service charges on residential customer bills. FE PA Statement in Support, p. 34. As such, this provision represents a reasonable compromise of the parties' competing litigation positions regarding non-basic services.

b. I&E

I&E did not submit testimony regarding FirstEnergy's Non-Basic Services issues. I&E Statement in Support, p. 32. Nevertheless, I&E shares the concerns of the interested Joint Petitioners. I&E Statement in Support, p. 32. Further, I&E played an active role in the settlement negotiations regarding these issues and monitored the proposals and counter proposals offered by the Parties throughout this proceeding. In consideration of all of the proffered evidence and arguments, I&E does not oppose this Settlement term as it is a full and fair compromise that provides FirstEnergy, the Joint Petitioners and the Commission with regulatory certainty and an amicable resolution of the Non-Basic Services issues, which is in the public interest. I&E Statement in Support, p. 32.

c. OCA

OCA explains that FirstEnergy currently markets and includes non-basic services to its customers as “FirstEnergy Products and Services.” OCA St. 6 at 37-38. These services include FirstEnergy Repair Plans that are administered by HomeServe: Exterior Water Service Line Protection Plan, Exterior Water Service Line Protection Plan, Exterior Electrical Line Protection Plan, Cooling System Repair Plan, Interior Electrical Line Protection Plan, and Water Heater Repair. *Id.* at 38. FirstEnergy also markets and sells a Surge Assist Plan (administered by “FE Products”) that includes a monthly fee that varies by the dollar amount of “protection” selected by the customer. *Id.* FirstEnergy markets FE Quote-Bid (administered by FE Products): Electrical Services, Outdoor and Security Lights, and EV Charger Installation. *Id.* As of June 2024, 210,738 customers were enrolled in one or more of these non-basic programs. *Id.* FirstEnergy states that its expenses and revenues for these services are recorded below the line and are not included in the revenue requirement for this rate case. *Id.* The Company uses its customer account information to market these services directly. *Id.* There is no contractual entity or affiliated interest that provides these services since FirstEnergy claims that these are “FE-PA’s non-basic charges.” *Id.*

OCA witness Alexander testified that there is a lack of disclosures in FirstEnergy’s bill regarding non-basis charges. OCA St. 3 at 38-39. FirstEnergy’s bill lists the customer’s services and the telephone number associated with each service. *Id.* at 38. The non-basic charges are not labeled as such or differentiated from regulated distribution charges. *Id.* These charges are listed under “Met-Ed Charges” and there is no separate total for the non-basic charges. *Id.* at 38-39. There is no information on the bill to explain that these are non-basic charges or that nonpayment of such charges will not be subject to disconnection. *Id.* at 39.

OCA argues FirstEnergy routinely issues marketing materials to its customers to promote and solicit enrollment in these non-basic products and services. Contrary to statements made in data responses concerning the lack of any contractual relationship between FirstEnergy and any entity that bills non-basic services on its customer bills, FirstEnergy's own marketing material states:

HomeServe is the contracted party with FirstEnergy and can only act under the express authority of the contract entered into by FirstEnergy and HomeServe. For plans in Pennsylvania, the Pennsylvania PUC regulations permit public utilities to bill customers for charges for other than basic service, which include, among other things, merchandise, appliance repairs, line repairs, and warranty programs and consistent with 52 Pa. Code § 56.13, these charges are displayed as separate line items on FirstEnergy's customers' bills.

OCA St. 6 at 39; OCA Ex. BA-10.

While FirstEnergy does not include non-basic service charges in payments plans, on termination notices “past due ‘non-basic services’” charges are grouped with consumption charges on the customer’s bill showing the totality of the balances past due. OCA St. 6 at 39. FirstEnergy indicated that, if the customer only has a past due balance for “non-basic services” they will not be terminated. *Id.* at 39-40 (internal citations omitted). FirstEnergy further indicated that unpaid non-basic charges appear on the customer’s termination notices for nonpayment of regulated distribution services, a practice that should not be allowed. *Id.* at 40. FirstEnergy also sends letters to customers who are 90 days or more overdue on these service payments and after several communications, the service is cancelled but the remaining unpaid charges will appear on the customer’s FirstEnergy bill. *Id.* (internal citations omitted).

OCA witness Alexander recommended that the Commission investigate FirstEnergy's non-basic services program to ensure that there is no subsidy by regulated distribution customers for these programs and to require significant reforms in how these programs are presented to Pennsylvania customers on customer bills, in marketing materials, on the Company's web portal, and in termination notices. OCA St. 6 at 40. According to OCA witness Alexander, this investigation should also review how FirstEnergy handles customer complaints about non-basic products appearing on their bill for the service they receive. *Id.* OCA witness Alexander further noted that FirstEnergy's customer bill does not include the necessary disclosures. *Id.*

OCA notes that FirstEnergy's web portal promotes non-basic services. These services are accessed from the same web pages that present regulated distribution service information and regulated charges to its customers. OCA St. 6 at 40. Furthermore, the web page that promotes these services does not explain that they are non-basic services. *Id.* FirstEnergy's web portal does not disclose that these programs are "non-basic" and not required to be purchased from FirstEnergy or describe how these charges relate to credit and collection actions for FirstEnergy's regulated services. *Id.* at 40-41. Furthermore, OCA witness Alexander noted that the use of FirstEnergy's regulated service customer lists and billing data to market these unregulated products and services raises additional customer privacy concerns. *Id.* at 41. The intermingling of regulated and unregulated and non-basic services in FirstEnergy's marketing, billing, and customer education activities is a matter of significant concern in light of the obligation of Pennsylvania's EDCs to restructure their operations to eliminate competitively available services and products from their regulated portfolio of services. *Id.*

Under the terms of the Settlement, FirstEnergy's web portal will identify that non-basic services and products are "non-basic," are not required to be purchased from FirstEnergy, and that other companies offer these same services. Settlement ¶ 72.a.

Moreover, the Settlement states that FirstEnergy agrees to educate customers who purchase HomeServe or other non-basic services billed by the Company about: 1) the definition of non-basic service, 2) the relationship between non-basic and basic services, and 3) related customer protections. Educational materials shall be provided in plain language via marketing materials, customer enrollment portal or other appropriate delivery channels best suited to ensure transparency, enhance customer comprehension and considering customer communication preferences. Settlement ¶ 72.b. The Company agrees to insert a “non-basic” services label on its customer bills prior to the listing of the products and services purchased by the customer. Settlement ¶ 72.c. The Company agrees to provide the proposed language changes/additions to the parties in this case for comment and discussion prior to implementing these changes. Settlement ¶ 72.d.

These reforms to FirstEnergy’s practices regarding non-basic services are a result of compromise and will provide significant clarifications to FirstEnergy’s customers. OCA Statement in Support p. 43. For the reasons discussed in OCA witness Alexander’s testimony, FirstEnergy’s current practices regarding non-basic service is potentially misleading, and customers should have a complete understanding of what they are signing up for when they are determining whether to enroll in non-basic services. *Id.* The provisions related to non-basic service contained in Settlement are a step forward in increasing transparency and are in the public interest. *Id.*

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

CAUSE-PA did not take a position in this proceeding related to the Non-Basic Service issues set forth in Paragraphs 72 of the proposed Settlement. CAUSE-PA Statement in Support, p. 34. CAUSE-PA is nevertheless supportive of the provisions contained in Paragraph 72 of the proposed Settlement. CAUSE-PA Statement in Support, p. 34. CAUSE-PA avers these provisions are important to ensuring that non-basic service charges are clearly labeled as such, and accounted for separately to ensure nonpayment of these charges does not form the basis of involuntary termination. CAUSE-PA Statement in Support, p. 34. As such, CAUSE-PA asserts that these provisions are just, reasonable, in the public interest, and should be approved without modification. CAUSE-PA Statement in Support, p. 34-35.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

Walmart did not specifically address this Settlement term in its Statement in Support.

i. IBEW Local 777

IBEW Local 777 did not specifically address this Settlement term in its Statement in Support.

j. IBEW Local 459

IBEW Local 459 did not specifically address this Settlement term in its Statement in Support.

k. UWUA Local 102

UWUA Local 102 did not specifically address this Settlement term in its Statement in Support.

l. Discussion and Recommendation

OCA raised concerns regarding FE PA's marketing and inclusion of non-basic service charges on residential customer bills. OCA St. No. 4, at 37-41. The Settlement includes provisions to ensure FE PA clarifies its Non-Basic Service options for customers so customers have a better understanding of the services and can make a more informed decision on whether to enroll. Further, these provisions ensure that Non-Basic Service charges are clearly labeled and will not form the basis of involuntary termination. Together, these provisions ensure greater customer education, transparency, and protection, and are in the public interest.

3. EV Pilot (Settlement ¶ 73)

a. FE PA

FE PA proposed to implement an EV Pilot Program as a part of its initial filing. FE PA St. No. 8, at 13-17. The EV Pilot proposed by FE PA contained two programs: (1) an education and awareness program; and (2) an incentive / rebate program. FE PA St. No. 8, at 14. The education and awareness program had several components, including: an online EV education platform, a grant assistance component, a fleet advisory program, and a dealership toolkit program. FE PA St. No. 8, at 14-15. The incentive / rebate program included three components: a residential rebate component, a non-residential component that offered two sets of rebates (a customer-side make-ready rebate and a utility-side make-ready rebate), and a direct current fast charger (DCFC) rebate component. FE PA St. No. 8, at 15-16.

Several of the parties addressed the proposed EV Pilot Program, including I&E, OCA, CAUSE-PA, and Walmart.

Settlement Paragraph 73 states that for purposes of the Settlement, FE PA withdraws all elements of its EV Pilot. Settlement ¶ 73. However, it also provides that FE PA will initiate work with interested stakeholders, including Intervenor IBEW Local 777, to (i) develop a new EV distribution rate specifically for public-facing EV chargers, similar to PECO Energy Company's EV-FC Rider, and (ii) seek Commission approval for such a rate in its next general base rate case. Settlement ¶ 73.

This provision addresses the concerns raised by various of the parties regarding the EV Pilot Program initially proposed, but also provides for the development of a specific distribution rate for public-facing EV chargers, which FE PA believes will

benefit the public by helping to expand public charging infrastructure or assist public serving entities. FE Statement in Support, p. 35. Therefore, FE PA submits that this Settlement provision is in the public interest and should be approved without modification. FE Statement in Support, p. 35.

b. I&E

I&E witness Christine Wilson submitted testimony regarding the Company's proposed electric vehicle pilot program. I&E St. No. 4, pp. 51-56; I&E St. No. 4-SR, pp. 48-56. There was significant disagreement among the Parties as to whether any of FirstEnergy's EV proposal should be recommended, and if any, what parts of the proposal would be beneficial to the majority of FirstEnergy ratepayers. I&E St. No. 4-SR, pp. 48-56. Ultimately, after lengthy negotiations, the Joint Petitioners agreed to the EV Pilot Settlement terms set forth in the Joint Petition. I&E fully supports the Settlement terms as a full and fair compromise that provides FirstEnergy, the Joint Petitioners, ratepayers, and the Commission with an amicable resolution and regulatory certainty which is in the public interest. I&E Statement in Support, p. 33.

c. OCA

In its filing, FirstEnergy proposed to spend ratepayer funds on an Electric Vehicle (EV) Pilot program. FE PA St. 8 at 13-17. FirstEnergy's EV Pilot Program included: (1) an EV education platform; (2) grant assistance; (3) dealership EV toolkits, and; (4) a fleet advisory program. *Id.* These EV programs were proposed as budgeted third-party expenses for providing these services and were not provided directly from FirstEnergy. FE PA response to OCA-V-29. Only the program, promotion and marketing, and full-time employee amounts are FirstEnergy expenses associated with promoting and administering these programs. *Id.*

OCA explained that these programs raised novel concerns about the proper role of the EDC in Pennsylvania's restructured utility market. OCA notes that, as an EDC, FirstEnergy does not own or operate generation resources. OCA St. 6 at 10-11. OCA explains that, as a distribution company, FirstEnergy's primary responsibility is to safely, efficiently, and affordably operate its distribution service infrastructure to provide reliable service, restore power when there are outages, maintain its poles, wires and substations, and deliver a reasonable level of customer service via its metering, billing, and customer call centers and field operations. *Id.* at 11.

OCA posits that there was no basis for FirstEnergy to assume, as it had in this proceeding, that its regulated rates and services must include incentives and programs designed to enhance a specific use of electricity or promote with ratepayer funds the electrification of transportation. OCA St. 6 at 11. OCA notes there is no Commission directive or policy that would support the use of ratepayer funds for these purposes. To the contrary, the only rulemaking proceeding that is currently pending before the Commission related to EVs is a proposed policy statement that addresses rate designs for EV charging. OCA Statement in Support, p. 44. FirstEnergy is not proposing an EV rate design in this proceeding. OCA argues that instead of proposing an EV rate design, FirstEnergy proposed an experimental series of programs without measurable evaluation metrics. OCA Statement in Support, p. 44.

OCA argues that FirstEnergy's proposed EV education platform is unnecessary for the provision of electric distribution service. FirstEnergy's proposed online EV education platform "will allow customers to learn more about EVs, compare various EV models, and see available incentives and rebates that are offered by FE PA and governmental agencies." FE PA St. 8 at 14. OCA argues that requiring captive

ratepayers to fund these initiatives are not a reflection of the proper role of the electric distribution company to ensure reliable service at reasonable rates. OCA St. 6SR at 8.

OCA avers FirstEnergy's proposed EV grant assistance program went beyond the function of a public utility. OCA Statement in Support, p. 45. The grant assistance component of the EV program provides financial support for local government entities, school boards, transit authorities, and qualifying non-profit organizations for professional grant applications services. FE PA St. 8 at 14. Services include grant writing, application submission, post award reporting, and compliance monitoring. *Id.* None of these services involve the distribution of electric distribution. OCA Statement in Support, p. 45.

OCA believes that spending ratepayer funds on FirstEnergy's proposed fleet advisory program would be inappropriate. OCA Statement in Support, p. 45. FirstEnergy's proposed fleet advisory program is intended to aid commercial and municipal fleets with their fleet electrification transition. FirstEnergy St. 8 at 15. Services include feasibility studies, business cases, risk mitigation, cost-benefit analyses, road mapping, and procurement planning. *Id.* OCA maintains that requesting that ratepayers bear the burden of paying for these services is unreasonable. OCA Statement in Support, p. 45.

Further, OCA posits that FirstEnergy's dealership EV toolkit program is also an unreasonable use of ratepayer funds. OCA Statement in Support, p. 45. FirstEnergy's dealership EV toolkit program would use ratepayer funds to pay for kiosks located in car dealerships that will provide remote concierge services to help educate customers with their EV purchases. FE PA St. 8 at 15. According to FirstEnergy, this program will provide customers with an "additional resource for answering questions about their potential or recent EV purchases" including general purchase information,

vehicle maintenance, charging information, home charging installation, utility/governmental rebates/incentives, and utility rate programs. *Id.*

In addition to these programs, FirstEnergy proposed an incentive rebate program that would provide ratepayer funds to individual residential customers and businesses to install Level 2 chargers. OCA St. 6 at 10. An additional component would have provided ratepayer funded rebates to government agencies and nonprofits to install DC fast chargers. *Id.* The total program allowance will be \$2,000,000 annually for the residential rebate component and \$2,000,000 annually for the combined non-residential and DC fast charging rebate components. *Id.*

OCA explains there is a significant suite of federally funded programs currently available to incent consumers to invest in transportation and building electrification through the Inflation Reduction Act and other legislation that are directly applicable to Pennsylvania and FirstEnergy consumers: tax credits and rebates for heat pumps, induction stoves, lawn equipment, and make ready electric panels and rebates and tax credits for purchasing EVs and for EV charging equipment. OCA St. 6 at 15-16. At no point had FirstEnergy provided any evidence that targeting additional ratepayer funded rebates and benefits are either necessary or that its proposals would have a measurable impact beyond the currently available programs funded by federal taxpayers. *Id.* at 16.

Under the terms of the Settlement, FirstEnergy is withdrawing all elements of its EV proposal. Settlement ¶ 74. OCA argues that increasing ratepayer funding mandates that are not clearly needed or that are not documented as essential and least cost in nature would exacerbate harm to all ratepayers, especially low-income households. OCA Statement in Support, p. 46. OCA witness Alexander testified that “[i]t is widely acknowledged that lower income households use less and pay a higher percentage of their

household income for essential energy compared to higher income households.” OCA St. 6 at 13. Low- and moderate-income household should not be forced to shoulder the burden of increased utility costs to fund voluntary load growth programs such as those proposed by FirstEnergy. OCA Statement in Support, p. 46. OCA submits that this base rate proceeding is not a reasonable means of addressing this statewide issue. OCA Statement in Support, p. 46. OCA maintains that the withdrawal of FirstEnergy’s EV pilot programs is in the public interest and should be adopted by the Commission. OCA Statement in Support, p. 46.

d. OSBA

OSBA took no position on this issue.

e. CAUSE-PA

Through his testimony in this matter, Mr. Geller raised significant concerns that FE PA’s proposed EV proposals did not adequately consider and account for the significant barriers to EV adoption faced by low-income families and their communities. CAUSE-PA St. 1 at 74-76. Mr. Geller recommended that, if the EV pilot was approved, confirmed low-income customers should be excluded from paying the costs of the EV Pilot. *Id.* at 76-77. Mr. Geller also recommended that FE PA be required to devote at least 50% of the fleet and public transportation incentives to entities situated in or that primarily serve environmental justice (EJ) communities. *Id.* at 76-77.

Paragraph 73 provides that FE is withdrawing all elements of its EV proposal. Paragraph 73 requires, within 12 months of the final order in this proceeding, FE PA to initiate work with interested stakeholders to develop a new EV distribution rate

specifically for public-facing EV chargers (similar to PECO Energy Company's EV-FC Rider), and to seek Commission approval for such a rate in its next general base rate case.

CAUSE-PA asserts that the provisions contained in Paragraph 73 of the proposed Settlement provide important changes to FE PA's initial proposal, in light of the concerns raised by Mr. Geller and other parties to this proceeding. CAUSE-PA Statement in Support, p. 35. In conjunction with withdrawing FE PA's EV proposal in this matter, the proposed Settlement sets forth a process for FE PA to engage with stakeholders to develop a new EV distribution rate related to public-facing EV chargers. *Id.* While Mr. Geller did not take a specific position related to EV distribution rates in this proceeding, CAUSE-PA submits that this stakeholder process will provide a forum where stakeholders can discuss EV rate issues with the Company and ensure future proposals are more equitable and responsive to the needs of various communities and stakeholders. *Id.* at 35-36. For these reasons, CAUSE-PA argues that the provisions contained at Paragraph 73 of the proposed Settlement are reasonable, in the public interest, and should be approved without modification. *Id.* at 36.

f. LUG

LUG did not specifically address this Settlement term in its Statement in Support.

g. PSU

PSU did not specifically address this Settlement term in its Statement in Support.

h. Walmart

The Settlement provides for a stakeholder process after the conclusion of this proceeding to explore development of a new EV distribution rate specifically for public-facing EV chargers for inclusion in the Company's next general distribution base rate case. *Id.* at ¶ 73. Walmart explains this is a significant Settlement term that it recommended in its testimony. Walmart Statement in Support, p. 4. Walmart believes this should contribute to advancing transportation electrification in the Commonwealth. *Id.*

i. IBEW Local 777

Paragraph 71 of the Settlement provides that FE PA will withdraw all elements of its EV Pilot and will initiate work with interested stakeholders, including IBEW Local 777, to (i) develop a new EV distribution rate for public-facing EV chargers, similar to PECO's Energy Company's EV-FC Rider, and (ii) seek Commission approval for such a rate in its next general base rate case. Based on IBEW Local 777's review of the testimony, discovery, and discussions with interested parties, IBEW Local 777 finds this provision reasonable and in the public interest. IBEW Local 777's Statement in Support, p. 6.

j. IBEW Local 459

None.

k. UWUA Local 102

None.

1. Discussion and Recommendation

Several of the parties addressed the proposed EV Pilot Program. I&E disagreed with the proposed EV Pilot Program expense claim, and recommended disallowance of the recovery of costs for the proposed EV dealership toolkit and EV residential rebates. I&E St. No. 4, at 53-55. OCA proposed to disallow EV Pilot Program costs for ratemaking purposes except for costs related to the EV education program. OCA St. No. 1, at 58; OCA St. No. 6, at 5-17. CAUSE-PA also raised several concerns with the EV Pilot Program and recommended specific modifications to the program if it was approved. CAUSE-PA St. No. 1, at 74-77. Walmart also advanced specific recommendations related to the EV Pilot Program and the development of a rate structure for distribution customers interested in owning/operating DCFC EV charging equipment. Walmart St. No. 1, at 16-20.

There was significant disagreement among the Joint Petitioners as to whether any of FirstEnergy's EV proposal should be recommended, and if any, what parts of the proposal would be beneficial to the majority of FirstEnergy ratepayers. I&E St. No. 4-SR, pp. 48-56. Ultimately, after lengthy negotiations, the Joint Petitioners agreed to the EV Pilot Settlement terms set forth in the Joint Petition.

Specifically, Settlement Paragraph 73 states that for purposes of the Settlement, FE PA withdraws all elements of its EV Pilot. Settlement ¶ 73. However, it also provides that FE PA will initiate work with interested stakeholders, including Intervenor IBEW Local 777, to (i) develop a new EV distribution rate specifically for public-facing EV chargers, similar to PECO Energy Company's EV-FC Rider, and (ii) seek Commission approval for such a rate in its next general base rate case. Settlement ¶ 73.

This provision addresses the concerns raised by various of the Joint Petitioners regarding the EV Pilot Program initially proposed, but also provides for the development of a specific distribution rate for public-facing EV chargers via engagement with stakeholders. This collaborative approach will allow stakeholders to discuss EV rate issues with the Company and ensures future proposals are equitable and responsive to the needs of various communities. In conclusion, we find the Settlement terms relating to FE PA's EV Pilot Program are in the public interest.

I. Presiding Officers' Directed Questions

At the public input hearing conducted in Washington, Pennsylvania, on July 12, 2024, Donna Nedelk introduced concerns about the impact on her rates arising from a situation in Ohio wherein the parent company of FirstEnergy has been accused of using money to bribe Ohio state officials. Those proceedings were pending as of the date she provided her testimony. Ms. Nedelk testified she works in Ohio and lives in Pennsylvania where she is a customer of FirstEnergy. She testified about her strong opposition to the proposed base rate increase and brought six articles to support her opposition. She testified about the FirstEnergy bribery scandal and averred FirstEnergy has disqualified itself from a base rate increase because of that scandal. She noted the conspiracy defrauded customers of more than \$1.3 billion and proved to be an example of prioritizing corporate greed over customers. The witness asserted any increase in the base rate will be money FirstEnergy uses to pay its lawyers and settle outstanding claims against FirstEnergy.

On the first day of evidentiary hearings, the presiding officers apprised the Company of three inquiries and indicated the Company would be provided time in which to submit evidence on the issues. Tr. 624 – 633. The three queries involved the

following: the existence and amount of any management adder; the related issue of the short-term incentive pay or compensation (STIP) and long term incentive pay (LTIP);¹⁶ and an issue arising from testimony at a public input hearing about criminal allegations of bribery made against FirstEnergy Service Company (FE PA's parent company) in Ohio. The Company indicated it would provide evidence on those issues and, on the last day of evidentiary hearings, the Company provided the testimonies of two witnesses – Joanne Savage (Director of Rates and Regulatory Affairs) and Tracy Ashton (Assistant Corporate Controller) – and sponsored three exhibits, which were admitted into evidence. The witnesses and evidence were proffered by FE PA in response to the questions mentioned by the presiding officers.

Due to the nature of the assertions and the specific allegation that Pennsylvania ratepayer funds were used to pay bribes and engage in criminal activity, the presiding officers notified the Company that it would need to provide evidence concerning the allegations. Ms. Ashton discussed the one-time refund of \$13.6 million to FE PA's customers. Tr. 766-770. The reason for the refund was explained by Ms. Ashton as arising from the misallocation and miscalculation of funds involved in lobbying. Ms. Ashton testified the confusion was identified by FirstEnergy after a standard FERC audit covering the years of 2015 to 2021 that FirstEnergy filed with the Federal Energy Regulatory Commission (FERC). In that proceeding, FERC requested FirstEnergy perform a forensic audit into the misallocation and miscalculations. The misallocation and miscalculation came to light publicly in approximately July 2020 and resulted in a deferred prosecution agreement (or DPA) in July 2021, under which FirstEnergy Service Company, and by association FE PA, continued to function, as of the date of the evidentiary hearings. Tr. 786-788.

¹⁶ As noted during the evidentiary hearing by counsel for I&E, the LTIP acronym is similar to but different from the acronym for the LTIIP, which is defined as the Long-Term Infrastructure Improvement Plan. Tr. 763.

One question asked by the presiding officers was whether FE PA proposed an “add” or increase to rate base associated with an increase on FE PA’s return on equity as an incentive for management performance. FE PA’s witness, Ms. Savage, testified FE PA had not proposed a management adder and was not requesting an adder for management performance. Tr. 755. However, another related concern involved FE PA’s calculation of the STIP and the LTIP. Tr. 753. The calculations of STIP and LTIP, as the compensation package for its employees, are included in the base rate and can impact the rates FE PA’s ratepayers must pay. Tr. 757, 759. The compensation packages impact FE PA’s income statements as part of the Operations and Management (O&M) expenses. Tr. 757, 759. The Company provided detailed and reasonable descriptions of how it calculated the STIP and LTIP, and how the Company determined the appropriate allocator for each rate district.

J. Discussion and Recommendation

In sum, the Company responded to the testimony provided at the public input hearing and to the inquiries from the presiding officers by providing more detailed explanations and new explanations. The most serious of the concerns involved the House Bill 6 scandal in Ohio and the allegation that ratepayer funds paid in Pennsylvania were used inappropriately to pay bribes and curry favor. At the time of the evidentiary hearings, the criminal proceedings and the FERC proceedings continue and are pending. The Company provided sufficient evidence to show how the problem was detected and what FirstEnergy Services Company engaged in forensic auditing to determine the cause and gauge the impact of any monies applied and/or spent inappropriately and/or in a criminal manner. Because the matters remain outstanding before the federal authorities and authorities in Ohio, this concern should be addressed more fully when FirstEnergy files its next base rate case. In that future proceeding, FirstEnergy should be prepared to

show where the funds for the bribes originated, and the Company should be prepared to show how the ratepayers were not charged for the costs of the criminal activity (if criminal culpability is determined judicially) including legal costs and the payment of any fines or penalties arising from the House Bill 6 matter.

VIII. PRESIDING OFFICERS' FINAL RECOMMENDATION

The presiding officers reviewed the Settlement in its entirety and recommend the Commission approve the Settlement without modification, except for the non-substantive typographical errors previously mentioned. The Joint Petitioners showed by a preponderance of the evidence that the proposed settled rate is in the public interest and a benefit to ratepayers, the Company and all constituents. Accordingly, the proposed tariff supplement is recommended for approval in the Ordering Paragraphs below.

IX. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the Parties to this proceeding. 66 Pa.C.S. §§ 1301, 1308(d).
2. A public utility's rates must be just and reasonable. 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). The evidence necessary to meet that burden must be substantial. *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n.*, 409 A.2d at 505, 507 (Pa. Cmwlth. 1980).

4. 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)

5. In proving that its proposed rates are just and reasonable, a public utility need not affirmatively defend every claim it has made in its filing absent prior notice that such action is to be challenged. *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm’n*, 570 A.2d 149, 153 (Pa. Cmwlth. 1990) (citation omitted); *see also Pa. Pub. Util. Comm’n v. Equitable Gas Co.*, 73 Pa.P.U.C. 310 (1990).

6. 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.

7. Rates must not be unduly discriminatory among customer groups. 66 Pa.C.S. § 1304. The Commission has discretion to determine reasonable classification of service of rates as may be justified “by a variety of considerations including the quantity of service used, the nature of the use, the time of the use, the pattern of the use, differences of conditions of service or cost of service.” *Zucker v. Pa. Pub. Util. Comm’n*, 402 A.2d 1377, 1382 (Pa. Cmwlth. 1979).

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. A utility's cost of providing service guides the ratemaking process. *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006). Additional important ratemaking concerns include quality of service, rate gradualism, and rate affordability. *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa, Inc.*, R-2020-3018835 at 46-47 (Opinion and Order entered Feb. 19, 2021) (citing 66 Pa.C.S. §§ 523, 526(a); *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006); *Pa. Pub. Util. Comm'n v. Twin Lakes Util., Inc.*, 2020 Pa.P.U.C. LEXIS 340, *46-54 (Order Mar. 26, 2020)).

10. The Commission has broad discretion in determining whether rates are reasonable and to decide what factors it will consider in setting or evaluating a utility's rates. *Pa. Publ. Util. Comm'n v. City of Bethlehem - Water Dep't*, Docket No. R-2020-3020256 (Opinion and Order entered Apr. 15, 2021) (citing *Popowsky v. Pa. Pub. Util. Comm'n*, 683 A.2d 958 (Pa. Cmwlth. 1996)); *see also*, *Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808 (Pa. 1995).

11. The application of science and policy to the allocation of a revenue increase is within the Commission's discretion: There is no set formula for determining proper ratios among the rates of different customer classes. What is reasonable under the circumstances, the proper difference among rate classes, is an administrative question for the Commission to decide. *Popowsky v. Pa. Pub. Util. Comm'n*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996); *Peoples Nat. Gas Co. v. Pa. Publ. Util. Comm'n*, 409 A.2d 446 (Pa. Cmwlth. 1979).

12. Commission policy promotes settlements. 52 Pa. Code § 5.231.
13. Settlement results are often preferable to those results achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.
14. 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. C S Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).
15. Parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).
16. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. Windstream Pa., LLC*, Docket No. M-2012-2227108 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).
17. The joint petitioners have the burden to prove the Settlement is in the public interest. *Pa. Publ. Util. Comm'n v. City of Bethlehem - Water Dep't*, Docket No. R-2020-3020256 (Opinion and Order entered Apr. 15, 2021).
18. It is unusual for a proposed settlement in a general base rate case to be rejected. *Pa. Pub. Util. Comm'n v. Cmty. Utils. of Pa., Inc. – Wastewater Div.*, Docket No. R-2021-3025206, at 10 (Opinion and Order entered Jan. 13, 2022) (reversing the presiding officer's order recommending rejection of a joint petition for settlement of a

rate case concluding that on balance, the settlement is in the public interest and should be approved).

19. The Commission recognizes that settlements represent “a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest.” *Pa. Pub. Util. Comm’n v. C S Water and Sewer Associates*, 74 Pa.P.U.C. 767, 771 (1991).

20. The Commission has historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. *See Pa. Pub. Util. Comm’n v. Peoples TWP, LLC*, Docket No. R-2013-2355886 at 28 (Opinion and Order entered Dec. 19, 2013); *Pa. Pub. Util. Comm’n v. PECO Energy Co.*, Docket No. R-2018-3000164 (Opinion and Order entered Dec. 20, 2018).

21. “Black box” settlements of rate cases save 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. *Pa. Pub. Util. Comm’n v. Peoples TWP, LLC*, Docket No. R-2013-2355886 at 28 (Opinion and Order entered Dec. 19, 2013).

22. The Joint Petition for Approval of Settlement of All Issues is in the public interest. *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

23. The rates, rules and regulations in the tariff attached to the settlement are lawful, just and reasonable. 66 Pa.C.S. § 1301.

24. A utility's distribution system improvement charge must be reset to zero on the effective date of new base rates that provide for the prospective recovery of the annual fixed costs of eligible property that were previously recovered under the utility's DSIC. 66 Pa.C.S. § 1358(b)(1).

25. Parties may stipulate to a cost of common equity in the settlement of a base rate proceeding for purposes of calculating a DSIC. This figure may be used for up to two years. *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 p. 35 (Final Implementation Order entered Aug. 2, 2012). After that date, the cost of equity in the Commission's most recent quarterly report on the earnings of jurisdictional utilities would be used for the cost of equity component of pretax return. 66 Pa.C.S. § 1357(b)(3).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That FirstEnergy Pennsylvania Electric Company shall not place into effect the rates, rules, and regulations contained in Supplement No. 3 to Tariff Electric Pa. P.U.C. No. 1, the same having been found to be unjust, unreasonable, and therefore unlawful.

2. That the Joint Petition For Approval of Settlement of All Issues, submitted by FirstEnergy Pennsylvania Electric Company, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania, the Large Users Group, International Brotherhood of Electrical Workers Local 777, International Brotherhood of Electrical Workers Local 459, Walmart, Inc., Pennsylvania State University and the Utility Works Union of America System Local 102 at Docket No. R-2024-3047068, including all terms and conditions as clarified, should be approved.

3. That FirstEnergy Pennsylvania Electric Company is hereby authorized to file the pro forma tariff supplement contained in Appendix “A” to the Joint Petition For Approval of Settlement Stipulation on less than statutory notice, to be effective, on at least one day’s notice after entry of the Commission’s Final Order, for service rendered on and after January 1, 2025, designed to produce \$225 million in additional annual base rate operating revenue based upon the pro forma level of operations, consistent with the Commission’s Final Order in this proceeding.

4. That FirstEnergy Pennsylvania Electric Company shall allocate the authorized increase in operating revenue to each customer class and shall implement the rate design as set forth in Appendix “A” to the Joint Petition For Settlement.

5. That the Formal Complaints filed against the base rate proceeding at R-2024-3047068 by the Office of Consumer Advocate at C-2024-3048327; Office of Small Business Advocate at C-2024-3048411; the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, and the West Penn Power Industrial Intervenors

at C-2024-3048673; Pennsylvania State University at C-2024-3048958; and Utility Workers Union of America Local 102 at C-2024-3049235, are dismissed and marked closed, consistent with the Joint Petition For Approval of Settlement Stipulation.

6. That FirstEnergy Pennsylvania Electric Company shall refund to customers \$13.6 million, through a one-time bill credit on customer counts on the basis of 2023 distribution revenues.

7. That FirstEnergy Pennsylvania Electric Company shall file with the Commission’s Bureau of Technical Utility Services a list that shall detail by rate class how much in dollars will be refunded to each rate class as a result of the regulatory liability refund. The list shall be filed at Docket No. R-2024-3047068 on or before thirty (30) days after the date of the Commission’s entry of a final order.

8. That the Formal Complaints of the following individuals are dismissed and marked closed:

Annette Martin	:	C-2024-3048409
Donald Ellenberger	:	C-2024-3048783
Connie Dunmyer	:	C-2024-3049013
Mark Bowers	:	C-2024-3049014
Amy Stutzman	:	C-2024-3049016
Amy Stutzman	:	C-2024-3049017
Hattie Coates	:	C-2024-3049021
John J. Dolan	:	C-2024-3049128
David R. VanNorman, Jr.	:	C-2024-3049599
Roland Hoffman	:	C-2024-3049608
David Hoffman	:	C-2024-3049661
Judith A. Garofolo	:	C-2024-3049665
Elaine Kitts	:	C-2024-3049679
Ryan Gandelman	:	C-2024-3049683
Beth Gandelman	:	C-2024-3049774
Charles E. Schwering	:	C-2024-3049805
John Piccinic	:	C-2024-3049957
Henry Barzilay	:	C-2024-3049999

Stanley and Lois LaFuria : C-2024-3050000
Albert Dilworth : C-2024-3050001
Jackie Stoner : C-2024-3050413
Carol Ann Eroh : C-2024-3050849

9. That upon acceptance and approval by the Commission of the tariff revisions filed by FirstEnergy Pennsylvania Electric Company, consistent with this Order, the investigation at Docket No. R-2024-3047068 shall be marked closed.

10. That upon acceptance and approval by the Commission of the \$13.6 million refund to customers, the proceedings at Docket No. R-2024-3047068 shall be marked closed.

Date: October 15, 2024

/s/

Katrina L. Dunderdale
Administrative Law Judge

/s/

Emily I. DeVoe
Administrative Law Judge

ATTACHMENT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2024-3047068
Office of Consumer Advocate	:	C-2024-3048327
Office of Small Business Advocate	:	C-2024-3048411
Annette Martin	:	C-2024-3048409
Met-Ed Industrial Users Group, et al	:	C-2024-3048673
Donald Ellenberger	:	C-2024-3048783
Pennsylvania State University	:	C-2024-3048958
Connie Dunmyer	:	C-2024-3049013
Mark Bowers	:	C-2024-3049014
Amy Stutzman	:	C-2024-3049016
Amy Stutzman	:	C-2024-3049017
Hattie Coates	:	C-2024-3049021
John J. Dolan	:	C-2024-3049128
Utility Workers Union of America Local 102	:	C-2024-3049235
David R. VanNorman, Jr.	:	C-2024-3049599
Roland Hoffman	:	C-2024-3049608
David Hoffman	:	C-2024-3049661
Judith A. Garofolo	:	C-2024-3049665
Elaine Kitts	:	C-2024-3049679
Ryan Gandelman	:	C-2024-3049683
Beth Gandelman	:	C-2024-3049774
Charles E. Schwering	:	C-2024-3049805
John Piccinic	:	C-2024-3049957
Henry Barzilay	:	C-2024-3049999
Stanley and Lois LaFuria	:	C-2024-3050000
Albert Dilworth	:	C-2024-3050001
Jackie Stoner	:	C-2024-3050413
Carol Ann Eroh	:	C-2024-3050849
	:	
	:	
v.	:	
	:	
	:	
FirstEnergy Pennsylvania Electric Company	:	

FirstEnergy Pennsylvania Electric Company

Docket No. R-2024-3047068

**TESTIMONY AND EXHIBITS
ADMITTED INTO THE RECORD**

i. **FE PA Initial Filing**

1. Volume I

- Index
- Index of Direct Testimony and Exhibits
- FE PA Exhibit No. 1 – Proposed Tariff (Clean)
- Statement of Reasons
 - I. General Filing Information
 - II. Primary Statement of Rate Base & Operating Income
 - III. Rate of Return
 - IV. Rate Structure & Cost Allocation
 - V. Plant & Depreciation Supporting Data
 - VI. Unadjusted Comparative Balance Sheets & Operating Statements
- USB Flash Drive of Filing

2. Volume II

- FE PA Statement No. 1 – Direct Testimony of Joanne M. Savage
 - FE PA Exhibits JMS-1 through JMS-4 (**JMS-4 no public version**)
- FE PA Statement No. 2 – Direct Testimony of Wade Smith
- FE PA Statement No. 3 – Direct Testimony of Patricia Larkin
 - FE PA Exhibits PLM-1 through PML-6
- FE PA Statement No. 4 – Direct Testimony of Tracy Ashton
 - FE PA Exhibits TMA-1 through TMA-3
- FE PA Statement No. 5 – Direct Testimony of Gregory Gawlik
 - FE PA Exhibits GJG-1 and GJG-2 (**no public versions**)
- FE PA Statement No. 6 – Direct Testimony of Mark Kehl
 - FE PA Exhibits MSK-1 through MSK-4

3. Volume III

- FE PA Statement No. 7 – Direct Testimony of Timothy Lyons
 - FE PA Exhibits TSL-1 through TSL-5
- FE PA Statement No. 8 – Direct Testimony of Mark Jones and Errata filed to Direct Testimony on August 19, 2024
 - FE PA Exhibit MAJ-1
- FE PA Statement No. 10 – Direct Testimony of Dylan D’Ascendis
 - FE PA Exhibits DWD-1 through DWD-9
- FE PA Statement No. 11 – Direct Testimony of Bill Wang
 - FE PA Exhibits BW-1 through BW-3

4. Volume IV

- FE PA Statement No. 9 – Direct Testimony of John Spanos
 - FE PA Exhibits JJS-1 through JJS-16

5. Volume V – CONFIDENTIAL AND HIGHLY CONFIDENTIAL INFORMATION

- II-D-17 Attachment A (**Confidential**)
- II-D-21 Attachment A (**Confidential**)
- II-D-23 Attachment A (**Confidential**)
- II-D-23 Attachment B (**Confidential**)
- II-D-24 Attachment A (2023) (**Confidential**)
- II-D-24 Attachment B (2024) (**Confidential**)
- II-D-24 Attachment C (2025) (**Confidential**)
- FE PA Exhibit JMS-4 (**Highly Confidential**)
- FE PA Exhibit GJG-1 (**Confidential**)
- FE PA Exhibit GJG-2 (**Confidential**)

ii. FE PA Rebuttal Testimony and Exhibits

6. FE PA Statement No. 1-R – Rebuttal Testimony of Joanne M. Savage

- FE PA Exhibit JMS-5

7. FE PA Statement No. 2-R – Rebuttal Testimony of Wade Smith

8. FE PA Statement No. 3-R – Rebuttal Testimony of Patricia M. Larkin (**CONFIDENTIAL** and **PUBLIC** versions)

- FE PA Exhibits PML-7 (**CONFIDENTIAL** and **PUBLIC** versions), PML-8

9. FE PA Statement No. 4-R – Rebuttal Testimony of Tracy Ashton
 - FE PA Exhibits TMA-4 and TMA-5
 10. FE PA Statement No. 5-R – Rebuttal Testimony of Gregory Gawlik
 - FE PA Exhibits GJG-3 (**CONFIDENTIAL** version only)
 11. FE PA Statement No. 6-R – Rebuttal Testimony of Mark S. Kehl
 - FE PA Exhibits MSK-5 and MSK-6
 12. FE PA Statement No. 7-R – Rebuttal Testimony of Timothy Lyons and Errata filed to Rebuttal Testimony on August 19, 2024
 - FE PA Exhibits TSL-R1 and TSL-R2
 13. FE PA Statement No. 8-R – Rebuttal Testimony of Mark A. Jones
 - FE PA Exhibits MAJ-2 through MAJ-5
 14. FE PA Statement No. 9-R – Rebuttal Testimony of John J. Spanos
 - FE PA Exhibits JJS-17 and JJS-18
 15. FE PA Statement No. 10-R – Rebuttal Testimony of Dylan D’Ascendis
 - FE PA Exhibits DWD-1R through DWD-17R
 16. FE PA Statement No. 11-R – Rebuttal Testimony of Bill Wang
 17. FE PA Statement No. 12-R – Rebuttal Testimony of John Hawkins
 18. FE PA Statement No. 13-R – Rebuttal Testimony of April Marx
 19. FE PA Statement No. 14-R – Rebuttal Testimony of Jason De Stigter
- iii. **FE PA Surrebuttal Testimony and Exhibits**
20. FE PA Statement No. 8-SR – Surrebuttal Testimony of Mark Jones
 21. FE PA Statement No. 12-SR – Surrebuttal Testimony of John Hawkins

22. FE PA Statement No. 13-SR – Surrebuttal Testimony of April Marx

iv. **I&E** Direct Testimony and Exhibits

23. I&E Statement No. 1 - Direct Testimony of Vanessa Okum (PROPRIETARY/Non-Proprietary)

- I&E Exhibit No. 1 (PROPRIETARY/Non-Proprietary)

24. I&E Statement No. 2 – Direct Testimony of D.C. Patel

- I&E Exhibit No. 2

25. I&E Statement No. 3 – Direct Testimony of Joseph Kubas (PROPRIETARY/Non-Proprietary)

- I&E Exhibit No. 3

26. I&E Statement No. 4 – Direct Testimony of Christine Wilson

- I&E Exhibit No. 3

v. **I&E** Rebuttal Testimony and Exhibits

27. I&E Statement No. 1-R – Rebuttal Testimony of Vanessa Okum (PROPRIETARY/Non-Proprietary)

- I&E Exhibit No. 1-R

28. I&E Statement No. 4-R – Rebuttal Testimony of Christine Wilson

vi. **I&E** Surrebuttal Testimony and Exhibits

29. I&E Statement No. 1-SR – Surrebuttal Testimony of Vanessa Okum (PROPRIETARY/Non-Proprietary)

- I&E Exhibit No. 1-SR

30. I&E Statement No. 2-SR – Surrebuttal Testimony of D.C. Patel

31. I&E Statement No. 3-SR – Surrebuttal Testimony of Joseph Kubas (PROPRIETARY/Non-Proprietary)

- I&E Exhibit No. 3-SR

32. I&E Statement No. 4-SR – Surrebuttal Testimony of Christine Wilson

vii. **OCA Direct Testimony and Exhibits, with all Verifications Attached**

33. OCA Statement No. 1 – Direct Testimony of Dante Mugrace (CONFIDENTIAL and Public versions)

34. OCA Statement No. 2 – Direct Testimony of Marlon Griffing

- OCA Exhibit Nos. MFG-1 through MFG-21

35. OCA Statement No. 3 – Direct Testimony of David Garret and Errata to Direct Testimony, filed on July 8, 2024.

- OCA Exhibit Nos. DJG-1 through DJG-14

36. OCA Statement No. 4 – Direct Testimony of Dr. Karl Pavlovic

- OCA Exhibit Nos. KRP-1 through KRP-9

37. OCA Statement No. 5 – Direct Testimony of Roger Colton

- OCA Exhibit Nos. RDC-1 through RDC-19

38. OCA Statement No. 6 – Direct Testimony of Barbara Alexander

- OCA Exhibit Nos. BA-1 through BA-10

39. OCA Statement No. 7 – Direct Testimony of Rao Konidena

viii. **OCA Rebuttal Testimony**

40. OCA Statement No. 4R – Rebuttal Testimony of Dr. Karl Pavlovic

- OCA Exhibit Nos. KRP-1R through KRP-8R

41. OCA Statement No. 6R – Rebuttal Testimony of Barbara Alexander

- OCA Exhibit No. BA-11

ix. **OCA Surrebuttal Testimony**

42. OCA Statement No. 1SR – Surrebuttal Testimony of Dante Mugrace
(CONFIDENTIAL and public versions)

- OCA Exhibit Nos. DM-SR-1 through DM-SR-23

43. OCA Statement No. 2SR – Surrebuttal Testimony of Marlon Griffing

44. OCA Statement No. 3SR – Surrebuttal Testimony of David Garrett

45. OCA Statement No. 4SR – Surrebuttal Testimony of Dr. Karl Pavlovic
(CONFIDENTIAL and public versions)

46. OCA Statement No. 5SR – Surrebuttal Testimony of Roger Colton

47. OCA Statement No. 6SR – Surrebuttal Testimony of Barabara Alexander

48. OCA Statement No. 7SR – Surrebuttal Testimony of Rao Konidena

x. **OSBA** Direct Testimony

49. OSBA Statement No. 1 – Direct Testimony of Mark D. Ewen

- OSBA Exhibit No. IEc-1

xi. **OSBA** Surrebuttal Testimony

50. OSBA Statement No. 1-S – Surrebuttal Testimony of Mark D. Ewen

- OSBA Exhibit No. IEc-S1

xii. **CAUSE-PA** Direct Testimony

51. CAUSE-PA St. No. 1 – Direct Testimony of Harry Geller

- CAUSE-PA Exhibit No. 1
- CAUSE-PA Appendix A and B

xiii. **CAUSE-PA** Surrebuttal Testimony

52. CAUSE-PA St. No. 1-SR – Surrebuttal Testimony of Harry Geller

xiv. **Large User Groups** Direct Testimony

53. Large User Groups Statement No. 1 – Direct Testimony of Brian C. Andrews

- Large User Groups Exhibit Nos. BCA-1 through BCA-8

54. Large User Groups Statement No. 1S – Supplemental Direct Testimony of Brian C. Andrews

- Large User Groups Exhibit Nos. BCA-9 through BCA-11

xv. **Large User Groups** Rebuttal Testimony

55. Large User Groups Statement No. 1R – Rebuttal Testimony of Brian C. Andrews

- Large User Groups Exhibit No. BCA-12

xvi. **Large User Groups** Surrebuttal Testimony

56. Large Users Group Statement No. 1SR – Surrebuttal Testimony of Brian C. Andrews

xvii. **IBEW Local 777** Evidence

57. IBEW-1 – Annual Affiliate Report (2024.05.28_DPL DE Annual Affiliate Report) (attached to Prefiled Surrebuttal Testimony of D. Kline)

58. IBEW-2 - Capital & O&M Project List (Johnston_CN9692 Revised Capital Workplan and 2024 OM Project) (attached to Prefiled Surrebuttal Testimony of D. Kline)

59. IBEW-3 - Reconciliation ([BGE] Exhibit 2023 Final Reconciliation) (attached to Prefiled Surrebuttal Testimony of D. Kline)

60. IBEW-4 - Workforce Planning Compliance Report ([APS] 2020 Workforce Planning Compliance Report) (attached to Prefiled Surrebuttal Testimony of D. Kline)

61. IBEW-5 - FE PA's Responses to IBEW's Discovery Requests, Set-I.

62. IBEW-6 - Pennsylvania National Electric Vehicle Infrastructure (NEVI) Formula Program: Important Considerations for Prospective Contractors

63. IBEW-7 – Prefiled Direct Testimony of Daulph Kline

64. IBEW-8 – Prefiled Rebuttal Testimony of Daulph Kline with Exhibit Nos. IBEW-8-A, 8-B, and 8-C

65. IBEW-9 – Prefiled Surrebuttal Testimony of Daulph Kline

- xviii. **Walmart** Direct Testimony, with Verification attached.
 - 66. Walmart Statement No. 1 – Direct Testimony of Lisa V. Perry
 - Walmart Exhibit Nos. LVP-1 through LVP-3
- xix. **Penn State University** Direct Testimony
 - 67. PSU Statement No. 1 – Direct Testimony of James L. Crist
 - PSU Exhibit Nos. JLC-1
- xx. **Penn State University** Rebuttal Testimony
 - 68. PSU Statement No. 1-R – Rebuttal Testimony of James L. Crist
- xxi. **Penn State University** Surrebuttal Testimony
 - 69. PSU Statement No. 1-SR – Surrebuttal Testimony of James L. Crist
 - PSU Exhibit Nos. JLC1-SR and JLC2-SR