



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
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April 21, 2025

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: *Pennsylvania Public Utility Commission v. Pike County Power & Light Company
(Gas & Electric); Docket Nos. R-2024-3052357 and R-2024-3052359*

Dear Secretary Homsher:

Enclosed for filing in the above referenced matters is the Bureau of Technical Utility Services' Brief in Support of the Bureau's Petition for Interlocutory Review and Answer to Material Question filed on April 10, 2025.

Copies of the Brief will be provided as indicated on the Certificate of Service.

Should you have any questions, please do not hesitate to contact the undersigned at (717) 783-2812.

Sincerely,

Scott J. Thomas

Scott J. Thomas
Assistant Counsel
Law Bureau

Enclosures

cc: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
et al.,	:	
Complainants	:	
	:	
v.	:	Docket Nos. R-2024-3052357 (Gas)
	:	R-2024-3052359 (Electric)
Pike County Light & Power Company,	:	
	:	
Respondent	:	

**BUREAU OF TECHNICAL UTILITY SERVICES
BRIEF IN SUPPORT OF PETITION FOR INTERLOCUTORY REVIEW
AND ANSWER TO MATERIAL QUESTION**

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Dated: April 21, 2025

STATEMENT OF THE CASE

Pursuant to 52 Pa. Code §§ 5.302(b) and 5.501, the Bureau of Technical Utility Services (TUS) of the Pennsylvania Public Utility Commission (Commission) submits this Brief in support of its Petition for Interlocutory Review and Answer to Material Question filed April 10, 2025. The underlying matter involves the issuance of subpoenas by the presiding Administrative Law Judges (ALJs) at the request of the Office of Consumer Advocate (OCA) in two base rate cases initiated by Pike County Light & Power Company (Pike or the Company). The subpoenas direct TUS to produce foundational documents generated by TUS for the Commission's consideration in an unrelated proceeding. That proceeding culminated in the Commission adopting, at Public Meeting, TUS's recommendation concerning Quarterly Earnings Reports (QERs) for jurisdictional utility classes.

Background

On December 30, 2024 and January 14, 2025, respectively, Pike filed gas and electric tariff supplements seeking general base rate increases. With respect to its gas service, Pike proposed to increase rates based on a proposed return on equity (ROE) of 10.20%. Pike supported its proposed ROE by rounding up the Distribution System Improvement Charge (DSIC) Return for the Gas Distribution Company Barometer Group. That DSIC return was determined by the Commission at Public Meeting on October 10, 2024, in an unrelated case. In that case, the Commission approved a report prepared by TUS, the "Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024" (June 2024 QER). A copy of the June 2024 QER is attached as "Appendix A."

With respect to its electric service, Pike proposed to increase its rates based on a proposed ROE of 9.75%, supported by rounding down the DSIC Return for the Electric Company Barometer Group from the Commission-approved June 2024 QER. For both its proposed gas and electric base rate increases, Pike proposed that, in lieu of presenting expert testimony supporting its proposed ROEs, the Company would accept the generic DSIC ROEs adopted by the Commission at Public Meeting on October 10, 2024.

OCA filed Formal Complaints against both of Pike's proposed rate increases. The Commission issued Orders initiating investigations into the justness and reasonableness of the proposed rate increases; assigned

the proceedings to ALJs Guhl and Arnold; and suspended the effective date of the tariffs. The proceedings remain active before the ALJs.

The Commission's Bureau of Investigation and Enforcement (BI&E) propounded discovery on Pike, asking the utility whether it intended to provide detailed support for its proposed ROEs, or simply rely on the Commission-approved DSIC rates. In its responses dated January 17, 2025, Pike stated that it had not performed any market-based ROE analysis and intended to rely on the Commission's DSIC rates.¹ Even though OCA was served with Pike's responses to BI&E's discovery requests on January 27, 2025, OCA propounded further discovery on Pike relative to its reliance on the DSIC ROE in February, 2025. OCA subsequently claimed that it had to obtain TUS's workpapers supporting the Commission's adoption of the June 24 QER to evaluate Pike's proposed ROEs and assess their reasonableness. OCA, however, waited until March 18, 2025, to file two Applications for the Issuance of Subpoenas (Subpoena Applications) seeking production of TUS's "workpapers," specifically:

the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in [Attachments G and F] of the *June 2024 QER*.² Subpoena Applications at ¶¶ 18 (Gas), 17 (Electric). OCA notes that Attachments G, p. 23 (gas) and F, p. 18 (electric) of the *June 2024 QER* include "information which indicates that 16 DCF observations, and at least one CAPM observation, are made in support of the DSIC" returns of 10.15% (gas) and 9.90% (electric), but there is no indication in the *June 2024 QER* how these values were selected from the "Market Indicated Common Equity Cost Rate Range."

Subpoena Applications, ¶¶ 20 (gas), 19 (electric). Copies of the Subpoena Applications are attached as "Appendix B."

In addition, the Subpoena Applications included a "Notice to Plead" advising the parties that they had five days "to file a written response or objection" to the applications, despite a clear requirement in the Commission's regulations that persons be provided with ten days to respond or object to the issuance of a subpoena. *See* 52 Pa. Code §§ 5.421(b)(3), (f).

On March 26, 2025, two days before the ten-day regulatory deadline for TUS to object to the Subpoena Applications, the ALJs issued Orders granting the OCA's Subpoena Applications, with no prior

¹ Appendix H.

² "DCF" and "CAPM" are acronyms for discounted cash flow and capital asset pricing model, respectively.

notice to TUS that the ALJs were abbreviating the response period. The ALJs found that the truncated response deadline was appropriate, noting that 52 Pa. Code § 1.2(c) “permits presiding officers to waive a requirement in the Commission’s regulations when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.” ALJs Subpoena Orders at 4. Copies of the ALJs’ Subpoena Orders are attached as “Appendix C.”

Notwithstanding the premature ALJ Subpoena Orders, on March 28, 2025, TUS timely filed objections to the Subpoena Applications (Objections), arguing that the Subpoena Applications should be denied based on relevance and scope, and because TUS’s workpapers, which support and are integral to a final Commission public meeting action, are protected by the deliberative process privilege. In addition, TUS requested that the ALJs rescind their Subpoena Orders because they were issued prematurely, in blatant disregard of Commission regulations and TUS’s right to procedural due process, since the ALJs failed to provide TUS with notice that they were waiving the regulatory 10-day response period. 52 Pa. Code §§ 5.421(b)(3), (f). A copy of TUS’s Objections is attached as “Appendix D.”

Also on March 28, OCA served the subpoenas on TUS, which required TUS to provide the workpapers to OCA by March 31, 2025. Given the continuing dispute over the propriety of the subpoenas and the inability to undo the harm caused by improperly releasing the workpapers, TUS has not provided the workpapers to OCA. Nor have the presiding ALJs ruled on TUS’s Objections or rescinded their Subpoena Orders.

On March 31, 2025, TUS filed a Petition for Interlocutory Review of Discovery Matters pursuant to 52 Pa. Code § 5.304, seeking review of the ALJs’ Subpoena Orders (Petition for Interlocutory Review). TUS was NOT seeking review of a material question. Rather, TUS sought review of the Subpoena Orders themselves because, in essence, the subpoenas were the mechanism by which OCA was attempting to obtain pre-deliberative work product within the control of Commission advisory staff, which work product was foundational to a final Commission action. In essence, OCA is attempting, by use of a subpoena, to look behind the scenes of a final Commission action, violating the integrity of the deliberative process. A copy of TUS’s Petition for Interlocutory Review is attached as “Appendix E.”

On April 1, 2025, the ALJs held a telephonic hearing on OCA’s Subpoena Applications, TUS’s Objections, and TUS’s Petition for Interlocutory Review. By Order issued April 2, the ALJs denied TUS’s Petition for Interlocutory Review after finding that (i) TUS should have petitioned for interlocutory review under 52 Pa. Code § 5.302 and (ii) in any event, the petition failed to meet the conditions for interlocutory review under Section 5.304. As previously noted, the ALJs have not ruled on TUS’s Objections, despite the requirement that they do so within ten days (or by April 7, 2025). 52 Pa. Code § 5.421(f). A copy of the ALJs’ April 2, 2025 Order is attached as “Appendix F.”

On April 7, 2025, even though the ALJs had already ruled on TUS’s Petition for Interlocutory Review, OCA filed a Brief in Opposition to Certification of Interlocutory Review. A copy of OCA’s Brief is attached as “Appendix G.” In sum, OCA argued that the Commission should not *sua sponte* consider TUS’s Petition for Interlocutory Review because TUS’s Objections were not timely filed and TUS was not prejudiced by the truncated deadline for objecting to OCA’s Subpoena Applications. Of note, OCA makes two assertions that TUS will address below. OCA Brief at 6-9.

On April 10, 2025, due to the ALJs effective denial of TUS Objections to the Subpoena Applications, TUS filed a Petition for Interlocutory Review and Answer to Material Question (Petition). A copy of TUS’s Petition is attached as “Appendix H.” TUS requests that the Commission grant interlocutory review of the ALJs’ denial of TUS’s Objections and answer the following material question:

Did the ALJs err in granting OCA’s request for issuance of a subpoena on TUS in order to obtain TUS’s workpapers that support the information and calculations set forth within the Commission’s published Quarterly Earnings Reports when those workpapers are (i) not relevant to the underlying rate proceedings; (ii) protected from disclosure by the deliberative process privilege; and (iii) exempt from discovery as the product of Commission advisory staff?

TUS Petition at 1.

Pursuant to 52 Pa. Code §§ 5.302(b) and 5.501, TUS submits this Brief in Support of its Petition and respectfully requests the Commission grant TUS’s Objections to OCA’s Subpoena Applications and rescind the ALJs’ March 26, 2025 Subpoena Orders, which prematurely granted the Subpoena Applications.

SUMMARY OF THE ARGUMENT

TUS submits that the Commission should reverse the ALJs' Subpoena Orders because those Subpoena Orders improperly granted OCA access to documents which are privileged and exempt from disclosure. Compounding the ALJs' error, the ALJs violated TUS's due process rights by shortening the regulatory prescribed response time, with no notice, effectively preventing TUS from filing objection to the subpoena requests.

The ALJs failed to give TUS the required ten days to object to OCA's requests for subpoenas. 52 Pa. Code §§ 5.421(b)(3) and (f). The ALJs violated these provisions by improperly ruling on OCA's Subpoena Applications on March 26, 2025, before TUS's ten-day deadline to respond expired. Prior to their ruling, the ALJs failed to provide any notice that they were shortening the prescribed response time. After the March 26 ruling, TUS filed objections on March 28, 2025, as allowed by Commission regulations. The ALJs never ruled on those objections, in violation of 52 Pa. Code § 5.421(f).

The target of the subpoenas, TUS's foundational workpapers supporting a final Commission action, are exempt from disclosure. The records are exempt because they are (1) not relevant to Pike's asserted base rate ROEs; (2) protected by the deliberative process privilege; and (3) the product of Commission advisory staff. TUS's workpapers are not relevant to OCA's evaluation of Pike's base rate increase requests because the workpapers support the Commission's approved generic industry-wide DSIC ROEs. They do not support any specific utility's proposed base rate ROE. It is Pike's burden to prove, within the four corners of the rate case, that its requested base rate increases, including its chosen ROEs, are appropriate. Pike must provide support for its proposals. That Pike chose instead to cite to DSIC ROEs found in a prior, unrelated Commission action, does not make TUS' workpapers supporting that action relevant to a base rate proceeding.

In addition, TUS's workpapers are protected from disclosure by the deliberative process privilege. The workpapers constitute technical staff reports supporting the draft QERs, which the Commission uses to establish the generic DSIC ROEs for gas and electric utilities. TUS's workpapers are part and parcel of the Commission's deliberations regarding the setting of appropriate DSIC ROEs. The workpapers are foundational to a final, unrelated Commission action. As such, they are not subject to disclosure.

Finally, TUS's workpapers are exempt from disclosure because, in both the Commission's DSIC ROE proceedings and Pike's base rate proceedings, TUS serves the Commission in an advisory capacity. Under the Commission's regulations, parties to litigation cannot obtain through discovery, materials which are the product of Commission advisory staff. *See* 52 Pa. Code §§ 5.321(d) and 5.349(e). While this is not a request for production of documents by a party from a party, it amounts to the same on a non-party, with the subpoena simply being the vehicle to effect discovery. As such, compelling TUS to provide its workpapers to OCA clearly conflicts with the Commission's regulations and corresponding need to maintain impartiality in matters under adjudication.³

Under the circumstances, the Commission should reverse the ALJ's Subpoena Orders and deny OCA's Subpoena Applications.

³ Distinguish *First Class Transportation, Inc.*, which is cited in the ALJ's order denying our prior petition, at n. 2.

ARGUMENT

The ALJs erred in approving OCA’s subpoenas for TUS workpapers, which are foundational documents supporting a final action of the Commission. The Commission should find that TUS’s workpapers are (i) not relevant to the underlying base rate proceedings; (ii) protected from disclosure by the deliberative process privilege; and (iii) exempt from discovery as the product of Commission advisory staff.

I. The ALJs Erred In Granting OCA’s Subpoena Applications And Failing To Rule On TUS’s Objections To The Subpoena Applications

A. The ALJs Granted OCA’s Subpoena Applications Without Providing TUS With A Sufficient Opportunity To Object

As noted above, on March 26, 2025, the ALJs issued their Subpoena Orders granting OCA’s Subpoena Applications. However, in so doing, the ALJs erred in failing to provide TUS sufficient opportunity to file timely objections. Pursuant to 52 Pa. Code §§ 5.421(b)(3) and (f), TUS was entitled to ten days to file objections to the Subpoena Applications. As the Subpoena Applications were filed March 18, 2025, TUS’s objections were due on March 28. TUS timely filed objections on March 28. Although the ALJs cited 52 Pa. Code § 1.2(c) to support its decision to waive the ten-day response deadline, waiver of regulations under Section 1.2(c) is appropriate only when “the waiver does not adversely affect a substantive right of a party.” Here, granting the waiver before advising TUS that the response period would be truncated deprived TUS of the right to file objections to the Subpoena Applications based on applicable privileges effectively depriving TUS of their rights to such privileges, which by definition is prejudicial. While OCA requested an abbreviated response period, that request alone does not absolve the ALJs of their responsibility to communicate their decision timely and meaningfully to TUS, to shorten the response period. Here, the ALJs’ action effectively stripped TUS of its ability to object, with no effective notice. Accordingly, granting the waiver adversely affected TUS’s substantive rights and the waiver was inappropriate.

B. The ALJs Failed To Rule On TUS’s Objections

Notwithstanding the ALJs’ March 26 orders, TUS filed objections on March 28 to OCA’s subpoena applications. Those objections remain outstanding. Under 52 Pa. Code § 5.421(f), an ALJ must “address an objection within 10 days of the assignment of any objection filed under [Section 5.421].” Since TUS filed its

Objections on March 28, the ALJs should have ruled on them by April 7. As such, the ALJs are in violation of 52 Pa. Code § 5.421(f).

Given that the ALJs violated Commission regulations in (1) granting OCA's Subpoena Applications without giving TUS an opportunity to respond, 52 Pa. Code §§ 5.421(b)(3) and (f), and (2) failing to rule on TUS's timely filed Objections within ten days, 52 Pa. Code § 5.421(f), the Commission should grant TUS's Petition and answer the material question.

II. TUS's Workpapers Are Not Subject To Disclosure Because They Are Not Relevant To Determining Pike's Base Rate ROEs; They Are Protected From Disclosure By The Deliberative Process Privilege; And They Are The Product Of Commission Advisory Staff

A. TUS's Workpapers Are Not Subject To Subpoena Because They Support The Commission's DSIC ROEs And, Therefore, Are Not Relevant To Determining Pike's ROEs For Its Proposed Base Rates

A public utility is entitled to recover its reasonably incurred expenses and a fair return on its investment. The Commission evaluates a utility's request for a rate increase based on those criteria. During a base rate case investigation, the burden of proof is always on the public utility to present sufficient evidence to support its requested rate increase. Other parties, including OCA, have the right to contest a utility's proposed rate increase. *See* 66 Pa.C.S. §§ 315(a), 332(a). Any party challenging the rate increase is afforded the opportunity to review the utility's records and testimony supporting its proposed rate increase and present its own evidence and opinions regarding whether the proposed rate increase is lawful. With respect to Pike's requested rate increases, OCA provided notice through its Prehearing Memorandums that it intended to submit expert testimony on issues pertaining to rate of return. OCA Prehearing Memorandums at 8.

OCA, through its Subpoena Applications, asserted that since Pike relies on the DSIC ROEs set forth in the Commission's June and September 2024 QERs, TUS must provide OCA with TUS's workpapers used to develop those DSIC ROEs. OCA further asserted that when a utility supports its ROE request through a cost of capital witness, OCA routinely requests the witness's workpapers to evaluate the witness's recommendation. *See* 52 Pa. Code Section 5.321. Accordingly, OCA sought to subpoena TUS's workpapers because OCA claimed the workpapers are relevant to Pike's claimed ROEs.

Under Section 5.321(c) of the Commission's regulations, 52 Pa. Code § 5.321(c) (relating to scope of discovery), "a party may obtain discovery regarding any matter...which is relevant to the subject matter

involved in the pending action[.]” In these matters, which are investigations of Pike’s proposed rate increases, Pike is obligated to provide data supporting its proposed tariff supplements. However, TUS, a non-party to the Pike proceeding, serves in an advisory role to the Commission and is *not* responsible for supporting Pike’s proposed rate increases. TUS’s worksheets underlying the QERs, which OCA seeks, are not relevant to the base rate ROEs claimed by Pike.

With respect to the QERs, after reviewing the financial data filed by jurisdictional utilities pursuant to 52 Pa. Code, Chapter 71 (Financial Report), §§ 71.1–71.9 and other publicly available data, TUS prepares a draft QER recommendation for consideration by the Commission at public meeting. The publicly released QER, as adopted by the Commission at Public Meeting, clearly states that the Commission determines the ROE for *DSIC* purposes only.

TUS, serving an advisory role to the Commission in a prior, unrelated QER proceeding, is not responsible for supporting Pike’s proposed ROEs in a rate proceeding, especially since the QER proceeding is irrelevant to Pike’s rate proceeding. The burden of proof is on Pike to support its proposed ROEs and rate increases with relevant evidence. OCA is free to challenge Pike’s proposed ROEs and its reliance on the QER.

Because TUS’s workpapers supporting the QERs are not relevant to the question of whether Pike’s proposed ROEs are justified, OCA’s Subpoena Applications do not meet the requirements of 52 Pa. Code § 5.421(b)(1). As such, the ALJs’ Subpoena Orders improperly ordered TUS to provide its workpapers to OCA.

B. TUS’s Workpapers Are Not Subject To Subpoena Because They Are Protected By The Deliberative Process Privilege

Almost all the data contained in TUS’s spreadsheets is published verbatim in the QERs, as adopted by the Commission at Public Meeting, and already available to OCA.⁴ As such, OCA has the option to submit the Commission’s QERs as evidence in Pike’s base rate proceedings under 52 Pa. Code § 5.406, to the extent

⁴ Pursuant to 52 Pa. Code § 71.7, a public utility is required to serve a copy of its filed financial report with the Office of Special Assistants, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Small Business Advocate. The other data used by TUS to prepare the public meeting report calculating the range of the DSIC ROEs, is from public and subscription sources that are available to the OCA.

OCA believes them to be relevant. However, contrary to OCA's claims, it is not seeking purely factual information through its subpoenas. Rather, in seeking TUS's workpapers, OCA seeks to examine the inner workings through which the Commission, with the advice of TUS and the Law Bureau, derives the DSIC ROEs that appear in the QERs that the Commission votes on at Public Meeting. OCA's request for the workpapers broaches into the deliberative process of the Commission and should be denied:

The deliberative process privilege permits the government to withhold documents containing confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice. The deliberative process privilege benefits the public and not the officials who assert the privilege. The privilege recognizes that if governmental agencies were forced to operate in a fishbowl, the frank exchange of ideas and opinions would cease and the quality of administrative decisions would consequently suffer. For the deliberative process privilege to apply, certain requirements must be met. First, the communication must have been made before the deliberative process was completed. Secondly, the communication must be deliberative in character. It must be a direct part of the deliberative process in that it makes recommendations or expresses opinions on legal or policy matters. Information that is purely factual, even if decisionmakers used it in their deliberations is usually not protected.

Joe v. Prison Health Servs., Inc., 782 A.2d 24, 33 (Pa. Cmwlth. 2001) (*Joe*). It is irrelevant whether the information OCA seeks is “numbers” or “words,” since the deliberative process privilege applies to both.

In addition, the Commonwealth Court has held that an administrative agency's deliberative process “must be free from public or private inquisition either by investigative or appellate device.” *Commonwealth v. Pa. Pub. Util. Comm'n*, 331 A.2d 598, 601 (Pa. Cmwlth. 1975) (*Commonwealth*). More specifically, the Court found that Commission staff reports utilized by the Commission were exempt from disclosure as a matter of the Commission's deliberative process. The Court noted that the technical staff reports in question were used by the Commission to determine the appropriateness of tariff changes—that is, rate increases—proposed by a utility. *Id.* at 600. The Court found that these staff reports analyzed and recommend positions “before they were submitted to the Commissioners for possible suggestions, objections or comments.” *Id.* As such, the Court found that complainants challenging the tariff changes were not entitled to the staff reports.

As stated above, when preparing a draft QER for official action by the Commission at a public meeting, TUS prepares a spreadsheet that captures the financial data provided by utilities as well as data gathered by TUS from public and subscription sources. Here, OCA subpoenaed the spreadsheet. However,

the spreadsheet was integral to TUS's ultimate work product that was submitted to the Commission for its consideration and deliberation at Public Meeting.

In compiling draft QERs for Commission review and approval, TUS acts in an advisory capacity to the Commission. Thus, TUS's spreadsheets are part and parcel of the Commission's deliberative process regarding the establishment of utility-specific DSIC ROEs. Because TUS's workpapers supporting the QERs are protected from disclosure by the deliberative process privilege pursuant to the *Joe* and *Commonwealth* cases, OCA cannot obtain access to the workpapers. As such, the ALJs' Subpoena Orders improperly ordered TUS to provide its workpapers to OCA.

C. TUS's Workpapers Are Not Subject To Subpoena Because They Are The Product Of Commission Advisory Staff

In compiling data and preparing draft QERs for Commission review and approval, TUS acts in an advisory capacity to the Commission in setting each utility types' DSIC ROEs. Further, TUS serves in an advisory capacity to the Office of Administrative Law Judge and Commission in base rate proceedings. Such an advisory role for TUS is contemplated by the Public Utility Code. *See* 66 Pa.C.S. § 308.2(a)(3) (authorizing the Commission to establish a bureau to “[c]onduct financial reviews, earnings analyses and other financial studies.”).

OCA's subpoenas were issued to elicit the production of documents from TUS, a non-party, during the discovery phase of Pike's base rate proceedings. Parties to litigation are not permitted to obtain through discovery, materials which are the product of or within the control of Commission advisory staff. *See* 52 Pa. Code §§ 5.321(d) and 5.349(e).⁵ Since TUS serves in an advisory role to the Commission in setting DSIC ROEs *and* in rate proceedings such as Pike's, Commission regulations prohibit OCA from accessing the TUS workpapers.

Further, as part of its advisory role in base rate proceedings, TUS assists the Commission in analyzing the rate filing and makes a recommendation as to whether the Commission should suspend, approve, or issue an option order on the proposed rate increase. TUS should not have any other involvement in a contested base

⁵ TUS reiterates that OCA's request for TUS documents amounts to a discovery request on a non-party, which can only be effected using a subpoena.

rate proceeding. As part of a base rate proceeding, the Commission must ultimately determine the utility's appropriate ROE, which may differ from the ROE proposed by the utility. Thus, neither the Commission nor its advisory staff should take any action that seemingly endorses the position of any party. Compelling TUS to provide its workpapers, which were generated in a separate, unrelated, proceeding and were foundational to a recommendation voted on by the Commission at Public Meeting, to an interested party to support its position clearly conflicts with the Commission's need to maintain objectivity and violates Commission regulations. Because TUS's workpapers are clearly part of its advisory function culminating in Commission action at Public Meeting, they are exempt from discovery pursuant to 52 Pa. Code §§ 5.321(d) and 5.349(e). As such, OCA cannot obtain access to the workpapers, and the ALJs' Subpoena Orders improperly ordered TUS to provide its workpapers to OCA.

III. Other Matters

A. The Commission's Review Of TUS's Petition Does Not Require A Stay Of Pike's Base Rate Proceedings

Pursuant to the requirements of 52 Pa. Code § 5.302(b), TUS asserts that the underlying base rate proceedings do not require a stay to protect the rights of any party. OCA, in requesting expedited treatment of its subpoena requests, asserted that it needed TUS's workpapers to support OCA's direct testimony on rate of return and costs of capital issues, which testimony was due on April 3, 2025. Subpoena Applications at ¶¶ 27-28 (gas) and 26-27 (electric). However, this date has passed and OCA has not been provided with TUS's workpapers and has not sought further action before the ALJs to compel release of the documents. As such, a stay of Pike's base rate proceedings is not required.

B. Response To Allegations Raised By OCA In Its Brief In Opposition To Certification Of Interlocutory Review

OCA claims that TUS improperly obtained access to Pike's responses to I&E's interrogatories before they were made public. OCA Brief at 6-9. This, OCA asserts, is the basis for TUS's claim that OCA knew or should have known about Pike's reliance on TUS's QER workpapers in setting its proposed ROEs, and therefore OCA should have filed its Subpoena Applications in January 2025. Contrary to OCA's theory, TUS did not improperly receive information from non-public discovery. Counsel for TUS received information from counsel for Pike through an unsolicited March 31, 2025 email through which Pike advised TUS that

OCA knew of the Company's reliance on TUS's quarterly ROE determinations for its cost of equity basis before March, 2025, by virtue of Pike's responses to discovery propounded by BI&E. A copy of the email is attached as "Appendix I." Certificates of service, which were attached to counsel for Pike's email, indicate that OCA received a copy of Pike's responses on January 27, 2025 (gas) and February 3, 2025 (electric). Consistent with 52 Pa. Code § 5.331 ("[a] party shall initiate discovery as early in the proceedings as reasonably possible), OCA could have, and should have, filed its Subpoena Applications in February, instead of waiting until mid-March and then claiming that it required expedited treatment based on a quandary of its own making.

Additionally, OCA claims that the subpoenas should be issued since it simply followed directives of Commission staff in requesting the subpoenas. OCA counsel did speak with counsel for TUS prior to requesting the issuance of subpoenas for TUS's workpapers. Counsel for TUS advised OCA that TUS would not provide documents in response to an informal request for documents. However, counsel for TUS advised OCA it could file an application for a subpoena for TUS's workpapers. This advice was appropriate and procedurally accurate. Counsel did not tell OCA that TUS would provide the requested records in response to a subpoena, because TUS had the right to raise objections to the request based on applicable privileges and relevance. Counsel for TUS did not waive TUS's right to object to the subpoena on legally proper grounds, as prescribed by the Commission's regulations. 52 Pa. Code § 1.96.

CONCLUSION

For the foregoing reasons, TUS requests that the Commission grant its Petition for Interlocutory Review and Answer to Material Question. Specifically, TUS requests that the Commission grant its Objections to OCA's Application for Issuance of Subpoena, deny OCA's Subpoena Applications, and reverse the ALJs' Subpoena Orders.

Respectfully submitted,

/s/ Scott J. Thomas

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Dated: April 21, 2025

Appendix A

TUS Report on the Quarterly Earnings of Jurisdictional Utilities
for the Year Ended June 30, 2024 (June 2024 QER)
Docket No. M-2024-3051104
Adopted October 10, 2024

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Public Meeting held October 10, 2024

Docket Number: M-2024-3051104

BUREAU OF TECHNICAL UTILITY SERVICES

REPORT ON THE QUARTERLY EARNINGS

OF JURISDICTIONAL UTILITIES

FOR THE YEAR ENDED

June 30, 2024

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

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Attachment G – Historic DCF and CAPM – Gas 24
Historic barometer group DCF and CAPM average ROEs, including a linear trend line graph.

Attachment G – Gas Barometer Group Calculation of a Current and 52 Week Average Dividend Yield..... 25
Gas barometer companies are used to calculate a current DCF in the first chart. The second chart demonstrates the companies 52-week average DCF. A final average of the two calculations is also shown at the bottom.

Attachment G – Development of a Representative Dividend Growth Rate..... 26
Multiple sources of the gas barometer companies projected 5-year Earnings Per Share are used to calculate the Group Average Dividend Growth Estimate.

Attachment H – Market Based Returns on Equity – Water..... 27
The market indicated common equity cost rate range consists of data used from the water barometer groups and is based on a series of calculations to average the DCF methods. Also, indicates Distribution System Improvement Charge Return.

Attachment H – Historic DCF and CAPM – Water 28
Historic barometer group DCF and CAPM average ROEs, including a linear trend line graph.

Attachment H – Water Barometer Group Calculation of a Current and 52 Week Average Dividend Yield..... 29
Water barometer companies are used to calculate a current DCF in the first chart. The second chart demonstrates the companies 52-week average DCF. A final average of the two calculations is also shown at the bottom.

Attachment H – Development of a Representative Dividend Growth Rate..... 30
Multiple sources of the water barometer companies projected 5-year Earnings Per Share are used to calculate the Group Average Dividend Growth Estimate.

Introduction:

On September 20, 1991, the Commission initiated a rulemaking at L-00910061 pertaining to earnings disclosures by the public utilities subject to its jurisdiction. At that docket, the Commission stated that the submission of accurate, reliable, and complete earnings disclosure reports, at regular intervals, is essential to the fulfillment of the broad regulatory oversight responsibilities entrusted to the Commission by the Legislature in the Public Utility Code. The earnings disclosure regulations promulgated by the Commission were adopted October 1, 1992, and published January 23, 1993, at 23 Pa.B. 463. Based upon those regulations, codified at 52 Pa. Code, Chapter 71, a reporting format was developed and distributed to the jurisdictional fixed utilities of Pennsylvania.

All fixed utilities having jurisdictional revenues of \$1,000,000 or more, for a calendar year, are required to file the report by March 31 of each year. Such reports are to be based upon the results of operations for the 12-month period ending December 31 of the prior year. Utilities having more than \$10,000,000 in jurisdictional revenues are also required to file reports for the 12 months ending on March 31, June 30, and September 30 of each year.¹ On November 30, 2004, however, the Pennsylvania General Assembly signed into law Act 183 concerning alternative telecommunications regulation and broadband deployment. As a result of Act 183, the reporting requirements for the PUC jurisdictional telecommunications companies of Pennsylvania have been streamlined at section 3015(e) of the Public Utility Code. A quarterly earnings report is not listed among those reports now required of PUC jurisdictional telecommunications utilities in Pennsylvania and, therefore, this report does not address telephone company earnings.

The reports have been filed for the period ended June 30, 2024, at Docket No. M-2024-3045247.² The Finance Staff of the Bureau of Technical Utility Services has reviewed the reports and has prepared this summary report for public release. This report sets forth the achieved return on equity for each company, the last allowed return for that utility, a market return as determined through the analysis of the barometer group data and the most recent returns allowed, per industry, by the Pennsylvania Public Utility Commission and by other regulatory bodies. Where a utility has not filed a report, the reasons for not filing are indicated.

Questions pertaining to the preparation and contents of this Report should be directed to Mr. Marc Hoffer, Supervisor - Finance, Bureau of Technical Utility Services, at (717) 787-1869.

¹ Per Commission regulations at 52 Pa. Code § 71.3(a)(1), the major electric utilities are specifically identified by name rather than utilizing the \$10,000,000 revenue threshold utilized by gas and water utilities.

² Columbia Gas of PA Inc., Peoples Natural Gas Company LLC, Duquesne Light Company, PECO Energy – Electric, PECO Energy – Gas, FirstEnergy Pennsylvania Electric Co., and Aqua Pennsylvania have rate filings at Docket Nos. R-2024-3046519, R-2023-3044549, R-2024-3046523, R-2024-3046931, R-2024-3046932, R-2024-3047068, and R-2024-3047822, respectively, and have filed a letter with the Secretary in place of a report in accordance with 52 Pa. Code § 71.4.

The equity return summaries that follow in Attachment A are, for each quarter;

ACTUAL

1. Based on actual results of operations

and

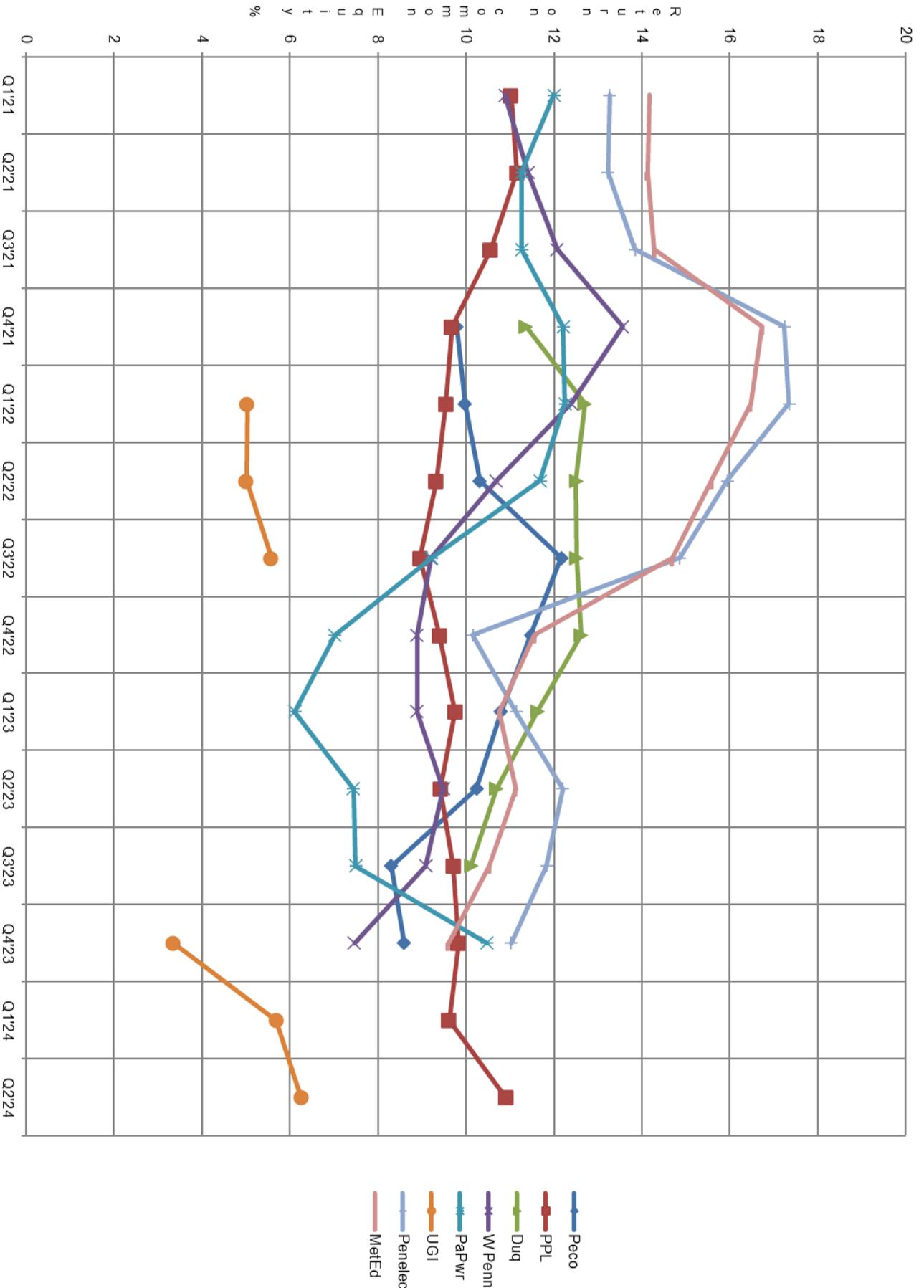
ADJUSTED

2. Based on company proposed pro forma and ratemaking adjustments

**ELECTRIC UTILITIES
EQUITY RETURNS BY QUARTER**

QTR	END	Peco		PPL		Duq		W Penn		PaPwr		UGI		Penelec		MetEd	
		ACT	ADJ	ACT	ADJ	ACT	ADJ	ACT	ADJ	ACT	ADJ	ACT	ADJ	ACT	ADJ	ACT	ADJ
2018	1			12.53	11.36			10.35	9.08	9.03	8.08			11.84	9.93	12.77	11.38
	2			11.05	9.49			9.92	8.52	8.79	7.57			11.56	9.39	11.90	10.26
	3			11.19	9.83			11.41	6.74	10.30	5.80			13.97	8.44	14.46	9.62
	4	10.88	7.61	11.10	10.15	12.06	9.39	9.92	6.78	10.64	7.43			13.27	9.31	13.05	7.40
2019	1	12.65	7.93	10.10	8.96	12.58	9.73	9.08	6.62	9.14	7.61	7.05	5.22	12.03	8.07	12.54	7.66
	2	12.34	7.94	10.51	8.95	12.38	9.34	8.02	5.99	8.29	7.10	5.77	3.22	11.42	8.16	11.72	7.21
	3	12.49	7.96	10.61	8.99	13.88	9.33	9.90	7.87	9.28	7.76	6.20	2.04	11.26	8.78	12.25	7.77
	4	12.21	8.50	10.53	10.40	13.92	9.08	14.13	7.07	8.08	6.90	7.20	2.38	10.02	8.54	10.96	9.27
2020	1	11.31	8.35	10.84	11.20	12.66	8.31	9.82	5.54	5.06	6.71	5.43	2.26	7.24	8.74	7.20	8.31
	2	9.38	8.17	11.20	10.81	12.73	8.56	10.41	5.53	5.56	6.55	6.06	2.01	6.68	7.94	7.34	8.04
	3	9.62	8.56	11.14	11.20	12.32	8.08	10.22	5.42	5.62	6.74	7.76	0.41	7.87	8.75	7.64	8.37
	4	9.16	7.64	11.10	11.48	12.57	8.15	7.48	5.65	11.36	7.34			10.08	8.62	9.91	8.64
2021	1			11.03	11.76			10.89	6.64	12.01	7.01			13.27	8.96	14.19	9.44
	2			11.17	11.73			11.42	7.07	11.27	5.94			13.23	8.15	14.13	9.06
	3			10.57	10.65			12.08	7.91	11.27	5.91			13.85	8.67	14.29	9.38
	4	9.79	7.59	9.69	10.57	11.37	11.23	13.57	7.85	12.21	5.42			17.25	8.04	16.74	9.40
2022	1	9.98	6.99	9.55	9.49	12.71	10.91	12.40	6.99	12.26	5.30	5.03	4.93	17.35	7.83	16.48	9.40
	2	10.32	7.19	9.33	9.54	12.51	10.22	10.70	5.78	11.69	5.04	5.01	3.89	15.95	6.93	15.59	8.72
	3	12.17	7.42	8.97	9.14	12.52	9.74	9.21	4.43	9.23	4.35	5.58	0.65	14.87	5.88	14.70	7.57
	4	11.48	6.59	9.41	9.18	12.62	9.54	8.89	4.19	7.03	3.44			10.16	5.07	11.56	7.55
2023	1	10.80	6.47	9.76	9.36	11.63	9.53	8.89	5.32	6.11	4.01			11.15	6.88	10.77	8.25
	2	10.24	6.19	9.43	8.67	10.69	9.39	9.49	6.03	7.45	5.58			12.20	7.90	11.14	8.81
	3	8.30	5.48	9.72	8.12	10.12	8.89	9.09	5.96	7.50	5.76			11.84	7.79	10.54	8.60
	4	8.60	5.19	9.84	8.49			7.47	6.02	10.49	7.09	3.36	4.48	11.03	8.17	9.61	8.66
2024	1			9.63	8.22							5.70	2.03				
	2			10.92	9.17							6.26	1.11				

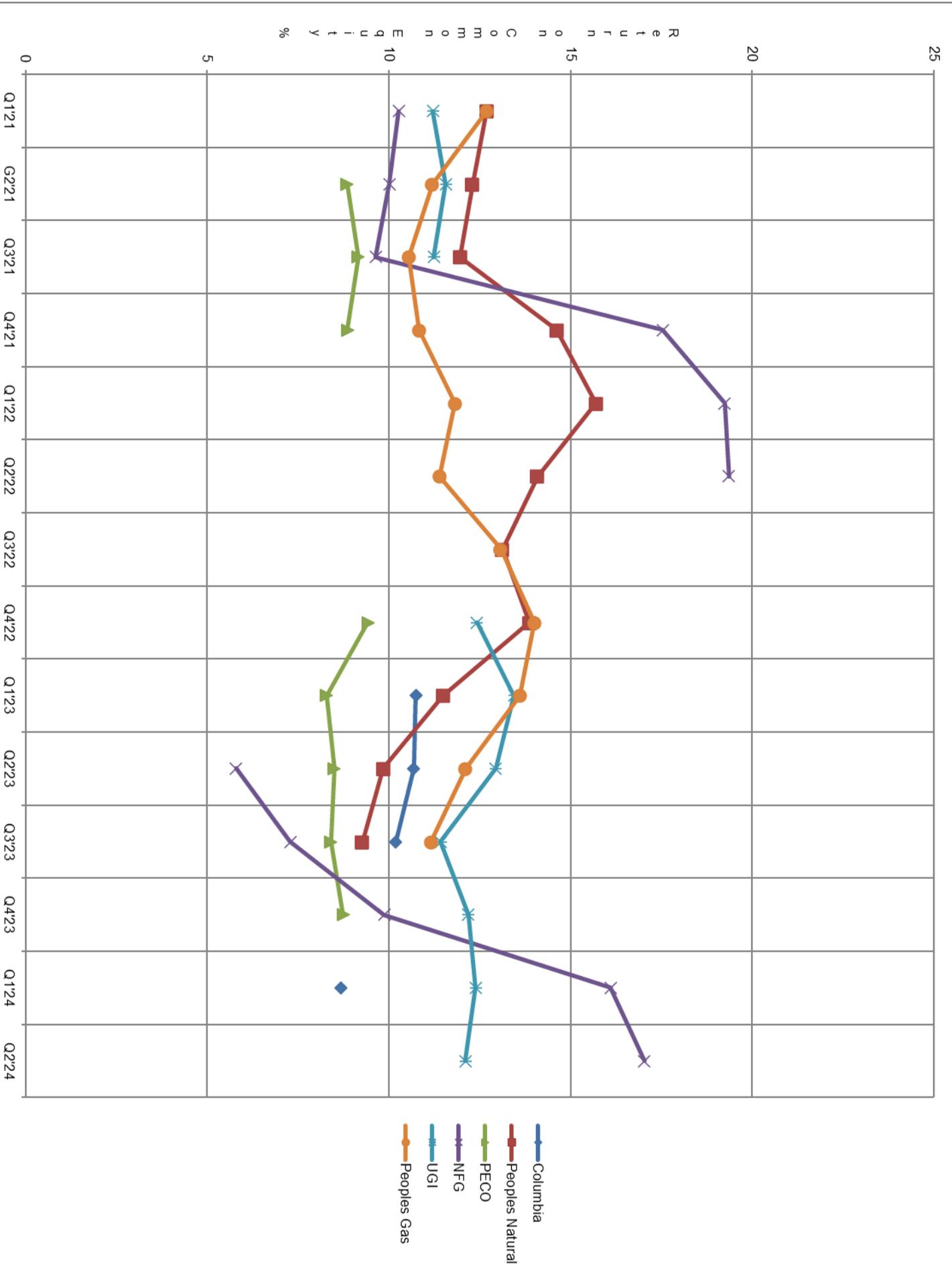
Major Pennsylvania Electric Utilities - Actual Equity Returns by Quarter



**GAS UTILITIES
EQUITY RETURNS BY QUARTER**

QTR	Columbia		Peoples Natural		PECO		NFG		UGI		Peoples Gas		
	<u>ACT</u>	<u>ADJ</u>	<u>ACT</u>	<u>ADJ</u>	<u>ACT</u>	<u>ADJ</u>	<u>ACT</u>	<u>ADJ</u>	<u>ACT</u>	<u>ADJ</u>	<u>ACT</u>	<u>ADJ</u>	
2018	1		11.42	7.00	12.65	9.77	14.40	10.20	12.82	7.90	14.02	10.17	
	2		11.03	6.80	12.66	9.05	12.06	9.89	16.75	6.80	12.78	10.15	
	3		10.21	7.43	12.54	8.36	12.52	10.12	18.69	8.04	13.03	10.20	
	4	11.39	9.81			12.86	8.68	12.24	10.21			13.92	11.13
2019	1	12.76	10.22			13.68	9.06	11.83	10.93			14.10	10.71
	2	12.04	9.92			12.62	8.41	14.56	9.99			13.80	11.66
	3	11.77	9.85			12.40	8.31	14.17	9.75			14.02	11.63
	4	9.21	9.09	10.74	12.26	11.75	6.99	14.20	9.77			12.76	11.20
2020	1	8.42	9.11	12.34	12.34	10.84	7.68	11.82	9.92			11.40	11.07
	2			13.81	12.38	11.26	7.25	11.28	9.05			11.89	11.10
	3			14.60	12.77			10.39	8.25			11.82	11.50
	4			12.09	10.37			9.68	8.12			12.93	12.11
2021	1			12.69	10.43			10.27	8.47	11.22	7.70	12.69	11.76
	2			12.31	10.23	8.85	5.13	10.02	8.47	11.57	8.04	11.20	11.61
	3			11.97	10.27	9.16	5.27	9.64	8.45	11.24	6.97	10.56	11.38
	4			14.62	10.52	8.86	5.79	17.54	8.02			10.84	10.28
2022	1			15.71	10.93			19.24	7.88			11.83	12.09
	2			14.09	11.67			19.36	6.87			11.40	12.19
	3			13.13	10.30							13.08	11.31
	4			13.87	10.56	9.43	5.93			12.42	7.62	14.01	14.19
2023	1	10.75	10.30	11.50	9.02	8.29	6.05			13.45	8.33	13.61	12.68
	2	10.68	10.33	9.85	9.50	8.50	6.20	5.80	9.98	12.94	8.97	12.12	13.84
	3	10.19	10.72	9.28	8.17	8.41	6.01	7.29	9.58	11.43	8.27	11.17	14.22
	4					8.75	6.82	9.87	10.80	12.19	7.44		
2024	1	8.67	9.61					16.10	10.64	12.39	7.55		
	2							17.03	9.78	12.11	6.91		

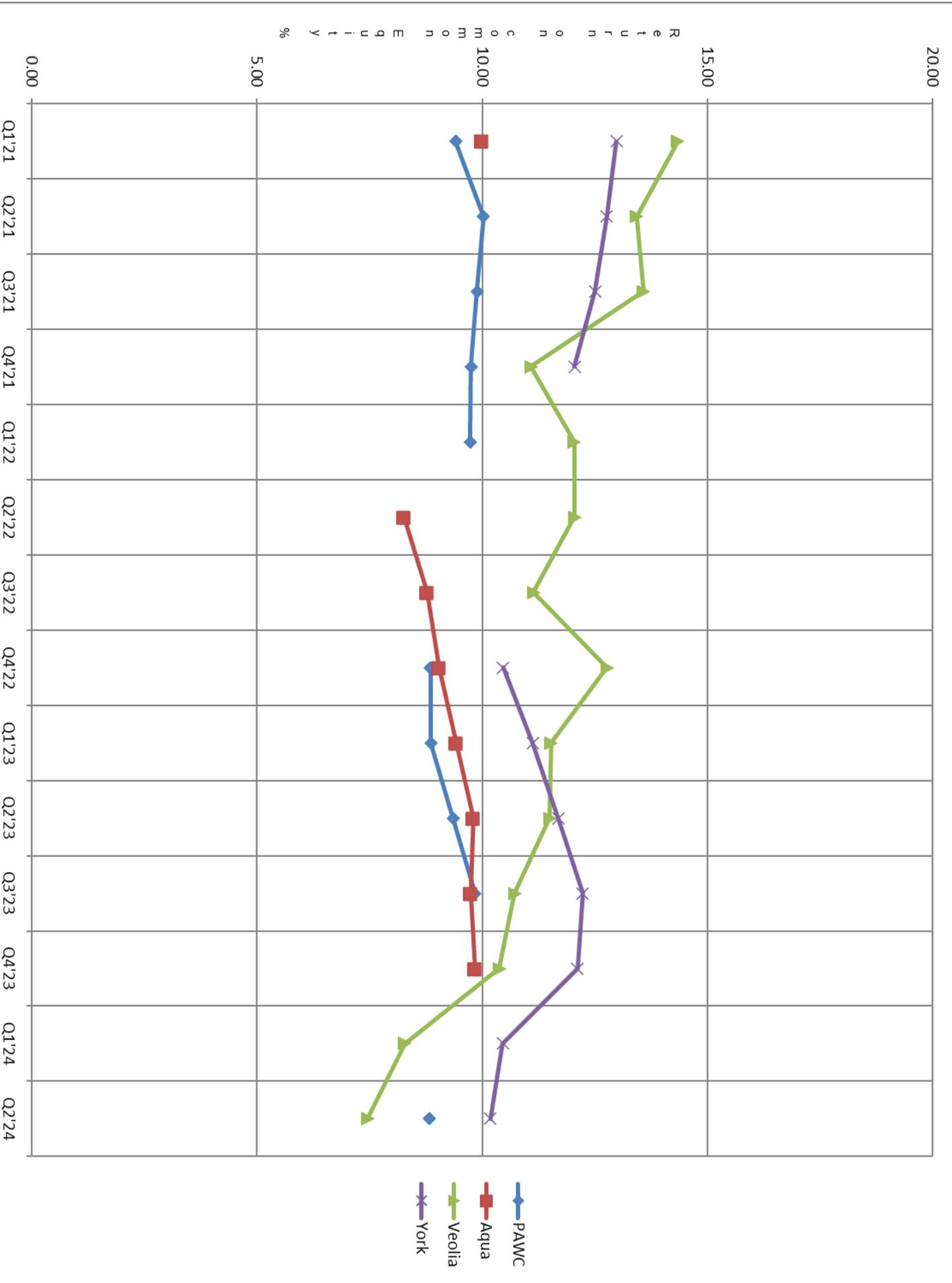
Major Pennsylvania Gas Utilities - Actual Equity Returns by Quarter



**WATER UTILITIES
EQUITY RETURNS BY QUARTER**

QTR	END	PAWC		Aqua		Veolia		York	
		ACT	ADJ	ACT	ADJ	ACT	ADJ	ACT	ADJ
2018	1	9.55	8.97	10.94	8.41				
	2	10.27	9.65						
	3	11.03	9.48						
	4	10.08	9.03					10.70	10.30
2019	1	9.82	8.87					11.60	11.60
	2	9.72	8.90	9.84	9.04	10.78	10.36	11.80	11.80
	3	9.13	8.41	10.69	8.84	11.55	11.75	12.00	12.00
	4	8.71	8.09	10.33	8.24	11.80	12.15	12.00	9.80
2020	1	8.74	7.56	10.47	8.31	11.30	11.30	12.39	12.39
	2			10.81	8.57	10.72	10.69	12.51	12.51
	3			10.33	8.55	11.13	10.69	13.76	13.76
	4	8.90	8.15	9.89	8.30	13.98	10.17	13.42	9.94
2021	1	9.41	8.90	9.99	8.38	14.34	10.48	12.98	9.74
	2	10.03	9.28			13.43	9.83	12.76	9.66
	3	9.89	8.65			13.58	9.07	12.51	9.32
	4	9.75	8.05			11.08	9.75	12.05	8.86
2022	1	9.73	7.82			12.04	9.68		
	2			8.26	8.91	12.05	9.79		
	3			8.78	8.85	11.14	9.30		
	4	8.85	8.97	9.04	8.88	12.77	9.49	10.47	10.57
2023	1	8.86	8.90	9.42	8.48	11.53	8.98	11.12	11.12
	2	9.35	8.89	9.80	8.52	11.50	8.91	11.69	11.69
	3	9.84	8.93	9.74	8.39	10.72	8.42	12.23	12.23
	4			9.84	8.35	10.38	7.64	12.12	8.16
2024	1					8.28	6.49	10.46	7.99
	2	8.82	8.56			7.46	5.70	10.18	8.00

Major Pennsylvania Water Companies - Actual Equity Returns by Quarter



Attachment B includes:

A. Overall Returns on rate base

1. Actual
2. Company proposed pro forma and ratemaking adjustments

and

B. Equity Returns

1. Actual
2. Company proposed pro forma and ratemaking adjustments

Summary of Returns
For the Year Ended June 30, 2024

COMPANY NAME	<u>OVERALL RETURN</u>		<u>EQUITY RETURN</u>		ROE	YEAR
	ACTUAL	ADJ	ACTUAL	ADJ	AUTH	AUTH
ELECTRIC						
<u>Major Electric Utilities</u>						
PECO Energy - Electric Operations*					Settled	2021
PPL Electric Utilities Corp.	8.22	7.20	10.92	9.17	Settled	2015
Duquesne Light Company*					Settled	2021
West Penn Power Company*					Settled	2017
Pennsylvania Power Company*					Settled	2017
UGI Utilities, Inc. - Electric Division	5.50	2.98	6.26	1.11	Settled	2023
Pennsylvania Electric Company*					Settled	2017
Metropolitan Edison Company *					Settled	2017
<u>Over \$1,000,000</u>						
<u>Revenues</u>						
Pike County Light & Power Co.	7.25	7.25	7.90	7.90	Settled	2021
GAS						
<u>\$10,000,000 Revenues</u>						
Columbia Gas of PA, Inc.*					Settled	2022
Peoples Natural Gas Company LLC*					Settled	2024
PECO Energy - Gas Operations*					Settled	2022
National Fuel Gas Distribution Co.	11.63	7.75	17.03	9.78	Settled	2023
UGI Utilities, Inc. – Gas Division	8.60	5.96	12.11	6.91	Settled	2022
Peoples Gas Company, LLC*					Settled	2024
Valley Energy Inc. of PA	3.07	3.16	2.67	2.78	Settled	2022
<u>\$1,000,000 to \$10,000,000</u>						
<u>Revenues</u>						
Pike County Light & Power Co.	2.07	2.07	-1.35	-1.35	Settled	2021
WATER						
<u>\$10,000,000 Revenues</u>						
PA American Water Company	6.87	6.74	8.82	8.56	9.45	2024
Aqua Pennsylvania*					10.00	2022
York Water Company	7.65	6.40	10.18	8.00	Settled	2023
Veolia Water Pennsylvania, Inc.	6.02	5.10	7.46	5.70	Settled	2018
<u>\$1,000,000 to \$10,000,000</u>						
<u>Revenues</u>						
Newtown Artesian Water Co.	2.29	1.32	.57	-1.11	Settled	2019
Columbia Water Company	3.73	3.73	3.19	3.19	9.75	2024

*Columbia Gas of PA Inc., Peoples Natural Gas Company LLC, Duquesne Light Company, PECO Energy – Electric, PECO Energy – Gas, FirstEnergy Pennsylvania Electric Co., and Aqua Pennsylvania have rate filings at Docket Nos. R-2024-3046519, R-2023-3044549, R-2024-3046523, R-2024-3046931, R-2024-3046932, R-2024-3047068, and R-2024-3047822, respectively, and have filed a letter with the Secretary in place of a report in accordance with 52 Pa. Code § 71.4.

ALLOWED RATES OF RETURN ON COMMON EQUITY

This is a historical chart that shows the most recent rate cases for select companies in electric, gas, and water. A docket number followed by their final return on equity and year is also given.

ELECTRIC

Docket Number **ROE (%)** **Year**

Recent PA PUC Allowed

UGI Utilities, Inc. – Electric	R-2022-3037368	Settled	2023
Duquesne Light Company	R-2021-3024750	Settled	2021
PECO Energy – Electric Operations	R-2021-3024601	Settled	2021
Pennsylvania Electric Company	R-2016-2537352	Settled	2017
Metropolitan Edison Company	R-2016-2537349	Settled	2017
Pennsylvania Power Company	R-2016-2537355	Settled	2017
West Penn Power Company	R-2016-2537359	Settled	2017

Current Market Indicated ROE as calculated by the Bureau of Technical Utility Services. **8.70-11.29**

GAS

Recent PA PUC Allowed

National Fuel Gas Distribution Corp.	R-2022-3035730	Settled	2023
Columbia Gas of Pennsylvania, Inc.	R-2022-3031211	Settled	2022
PECO Energy – Gas Operations	R-2022-3031113	Settled	2022
UGI Utilities, Inc. – Gas Division	R-2021-3030218	Settled	2022
Peoples Natural Gas Company	R-2023-3044549	Settled	2024
Peoples Gas Company	R-2023-3044549	Settled	2024

Current Market Indicated ROE as calculated by the Bureau of Technical Utility Services. **8.64-10.54**

WATER

Recent PA PUC Allowed

Columbia Water	R-2023-3040258	9.75	2024
PA American Water	R-2023-3043189	9.45	2024
York Water	R-2022-3031340	Settled	2023
Aqua Pennsylvania	R-2021-3027385	10.00	2022
Veolia Water f/k/a Suez Water	R-2018-3000834	Settled	2018

Current Market Indicated ROE as calculated by the Bureau of Technical Utility Services. **7.45-10.97**

Distribution System Improvement Charge (DSIC) Eligible Utilities
Return on Equity (ROE) Summary

	Utility Adjusted ROE ³ (%)	Commission Approved ROE ⁴ (%)
ELECTRIC		
PECO Energy – Electric Operations*		9.90
PPL Electric Utilities Corp.	9.17	9.90
Duquesne Light Company*		9.90
West Penn Power Company*		9.90
Pennsylvania Power Company*		9.90
Pennsylvania Electric Company*		9.90
Metropolitan Edison Company*		9.90
UGI Utilities, Inc.- Electric Division	1.11	9.90
Pike County Light & Power Co.	7.90	9.90
GAS		
Columbia Gas of PA, Inc.*		10.15
Peoples Natural Gas Company LLC*		10.15
PECO Energy – Gas Operations*		10.15
Peoples Gas Company, LLC*		10.15
UGI Utilities, Inc. – Gas Division	6.91	10.15
Pike County Light & Power Co.	-1.35	10.15
National Fuel Gas Distribution Corp	9.78	10.15
WATER		
PA American Water Company	8.56	9.45
PA American – Wastewater	8.56	9.45
AQUA Pennsylvania*		9.65
AQUA Pennsylvania – Wastewater*		9.65
York Water Company	8.00	9.65
Veolia Water Pennsylvania, Inc.	5.70	9.65
Columbia Water Company	3.19	9.75
Newtown Artesian Water	-1.11	9.65

*Columbia Gas of PA Inc., Peoples Natural Gas Company LLC, Duquesne Light Company, PECO Energy – Electric, PECO Energy – Gas, FirstEnergy Pennsylvania Electric Co., and Aqua Pennsylvania have rate filings at Docket Nos. R-2024-3046519, R-2023-3044549, R-2024-3046523, R-2024-3046931, R-2024-3046932, R-2024-3047068, and R-2024-3047822, respectively, and have filed a letter with the Secretary in place of a report in accordance with 52 Pa. Code § 71.4.

3 Each utility lists adjustments on Schedule B of their quarterly financial report.

4 The ROE is approved in a utility's most recent fully litigated base rate proceeding for which a final order was entered not more than two years prior to the effective date of the DSIC. If more than two years have elapsed between the entry of a final order and the DSIC effective date, the ROE is from this report. If the base rate proceeding is settled, without a stipulated ROE, the ROE is from this report.

Explanation of Discounted Cash Flow (DCF) and Capital Asset Pricing Model (CAPM)

Barometer Group Criteria

The criteria used for determining the industry barometer groups used to calculate ROEs in this report are as follows:

- 50% or more of the company's assets must be related to the jurisdictional utility industry;
- The company's stock must be publicly traded and must have at least three years of earnings history;
- Companies targeted by merger and acquisition (M&A) activity will be excluded; companies involved in M&A activity may be excluded;
- Investment information for the company must be available to the Commission from more than one source;
- The barometer group companies must have an investment grade credit rating (S&P BBB- or better, Moody's Baa3 or better); and
- Geographic Regions:
 - EDCs: *Value Line* Investment Survey's East, Central, and West Group Electric Utility companies;
 - NGDCs: *Value Line* Investment Survey's Natural Gas Utility industry group companies;
 - Water/Wastewater: *Value Line* Investment Survey's Water Utility industry group companies.

The barometer group companies are reviewed by staff on a quarterly basis and make any changes to these companies based upon the criteria above.

ROE Calculations

The Commission consistently uses the DCF model to determine the appropriate cost of equity for utilities. In this report, the DSIC ROE is calculated using two DCF models.

TUS uses the following formula to calculate the current dividend DCF: $K = D_1/P_0 + G$

TUS uses the following formula to calculate the 52-week average dividend DCF: $K = D_0/P_a + G$

Definitions:

K	=	Cost of equity
D ₁	=	Dividend expected during the year
	=	D ₀ + ½g
D ₀	=	Latest indicated dividend, obtained from Yahoo! Finance
g	=	Expected 5-year dividend growth rate of barometer group obtained from Value Line Investment Survey.
P ₀	=	Current price of the stock, obtained from Yahoo! Finance
P _a	=	Average of high and low stock price over the latest 52-week period, obtained from Yahoo! Finance
G	=	Average of 5-year expected earnings growth rate forecasts obtained from Value Line, Zacks Investment Survey, and Yahoo! Finance.

The CAPM uses the yield of a risk-free interest-bearing obligation plus a rate of return premium that is proportional to the systematic risk of an investment.

TUS uses the following formula to calculate CAPM: $K = R_f + \beta(R_m - R_f)$

Three components are necessary to calculate the CAPM cost of equity:

- β = Beta, a measure of systematic risk for each stock
- R_f = The risk-free rate of return, 10-year U.S. Treasury yields are used for R_f . Yields are taken from the previous two quarters and forecasted next four quarters.
- R_m = Total return of the equity market as determined by the SBBI Yearbook

The Commission determines the ROE used for DSIC purposes based on the range of reasonableness from the DCF barometer group data, CAPM data, recent ROEs adjudicated by the Commission, and informed judgment.

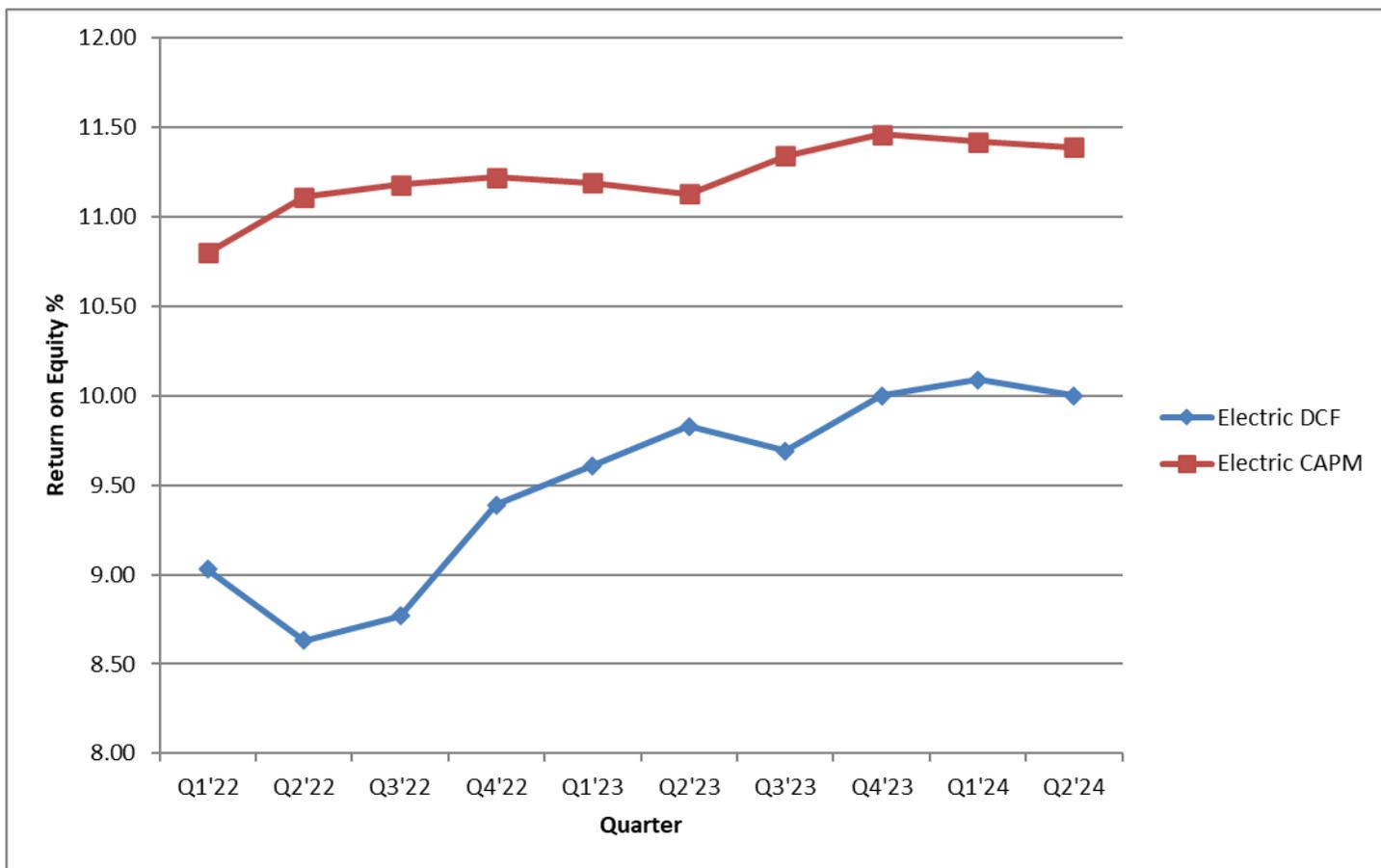
The market indicated common equity cost rate range consists of data used from the barometer groups and is based on a series of calculations to average the DCF methods.

Market Based Returns on Common Equity¹				
September 18, 2024				
<u>Electric Company Barometer Group</u>				
				Cost Rates
				<u>%</u>
(1) Current DCF:				9.80
(2) 52-Week Average DCF:				<u>10.19</u>
(3) Overall DCF ((1) + (2)) / 2 :				<u>10.00</u>
(4) Market Indicated Common Equity Cost Rate Range: @ 1 standard deviation around the mean. ²				<u>8.70-11.29</u>
(5) CAPM Check of DCF Reasonableness:				11.40
(6) Recent Commission Approved ROEs ³ : *None within the last two years				*
(7) Distribution System Improvement Charge (DSIC) Return ⁴ :				<u>9.90%</u>
¹ As calculated by the Bureau of Technical Utility Services				
² Standard Deviation of 56 DCF observations				
³ Base rate case ROEs within last two years, fully litigated or stipulated for DSIC purposes				
⁴ Commission authorized Return on Equity (ROE) for DSIC purposes				
Any questions concerning DSIC should be directed to Rich Layton of the Bureau of Technical Utility Services at (717) 214-9117.				

Historic Electric Industry Barometer Group DCF and CAPM Average ROEs

Electric		
	DCF	CAPM
Q1'22	9.03	10.80
Q2'22	8.63	11.11
Q3'22	8.77	11.18
Q4'22	9.39	11.22
Q1'23	9.61	11.19
Q2'23	9.83	11.13
Q3'23	9.69	11.34
Q4'23	10.00	11.46
Q1'24	10.09	11.42
Q2'24	10.00	11.39

Chart of Historic Electric Industry DCF and CAPM Average ROEs



Barometer electric companies are used to calculate a current DCF in the first chart. The second chart demonstrates the companies' 52-week average DCF. A final average of the two calculations is also shown at the bottom.

Electric Company Barometer Group					
Calculation of a Current Dividend Yield					
	Closing	Latest	Ind. Div.		
	Market	Indicated	Plus 1/2	Current	
	Price (Po)	Dividend	Div. Growth	Dividend	
	<u>9/18/2024</u>	<u>(Do)</u>	<u>Rate (D1)</u>	<u>Yield(D1/Po)</u>	<u>DCF</u>
	(\$)	(\$)	(\$)	(%)	(%)
Alliant Energy Corp	60.33	1.92	1.98	3.28	10.11
Ameren Corp	84.62	2.68	2.77	3.27	9.70
American Electric Power	103.22	3.52	3.62	3.50	9.94
Avista Corp	38.70	1.90	1.94	5.01	10.34
CMS Energy Corp	70.00	2.06	2.11	3.02	10.08
Consolidated Edison	103.41	3.32	3.38	3.27	9.03
Dominion Energy	57.41	2.67	2.68	4.66	7.66
DTE Energy Company	124.42	4.08	4.14	3.33	9.23
Duke Energy Company	115.88	4.18	4.22	3.64	9.56
Edison International	85.29	3.12	3.21	3.76	11.38
Entergy Corp.	128.61	4.52	4.60	3.58	8.49
Evergy Inc	61.55	2.57	2.66	4.32	10.87
Eversource Energy	67.49	2.86	2.95	4.36	9.66
Exelon Corporation	39.50	1.52	1.52	3.85	8.80
FirstEnergy Corp	43.49	1.70	1.75	4.02	10.28
IDACORP, Inc..	103.43	3.32	3.41	3.30	8.80
MGE Energy, Inc.	90.83	1.80	1.86	2.05	8.25
NextEra Energy, Inc.	84.28	2.06	2.15	2.55	10.59
NorthWestern Corp	56.54	2.60	2.63	4.64	10.04
OGE Energy Corp	40.61	1.67	1.70	4.17	10.02
Otter Tail Corp	78.85	1.87	1.94	2.45	9.20
PPL Corporation	32.15	1.03	1.03	3.20	10.23
TXNM Energy Inc.	43.06	1.55	1.59	3.69	7.45
Pinnacle West Capital Corp	90.22	3.52	3.55	3.93	10.56
Portland General Electric Co.	48.61	2.00	2.06	4.23	14.26
Public Service Enterprise Group	84.24	2.40	2.46	2.92	9.05
Southern Company	89.01	2.88	2.93	3.29	10.23
Xcel Energy Inc.	64.36	2.19	2.25	3.50	10.21
Group Average	74.65	2.55	2.61	3.60	9.79
Group Average G				6.20	
DCF				9.80	

Electric Company Barometer Group						
52-week Average Dividend Yield Calculation						
				Latest	Average	
				Indicated	Dividend	
	<u>High</u>	<u>Low</u>	<u>Average (Pa)</u>	<u>Dividend (Do)</u>	<u>Yield (Do/Pa)</u>	<u>DCF</u>
	(\$)	(\$)	(\$)	(\$)	(%)	(%)
Alliant Energy Corp	60.67	45.15	52.91	1.92	3.63	10.46
Ameren Corp	85.83	67.03	76.43	2.68	3.51	9.94
American Electric Power	105.18	69.38	87.28	3.52	4.03	10.47
Avista Corp	39.99	30.53	35.26	1.90	5.39	10.72
CMS Energy Corp	70.74	49.87	60.31	2.06	3.42	10.48
Consolidated Edison	105.99	80.46	93.23	3.32	3.56	9.33
Dominion Energy	58.94	39.18	49.06	2.67	5.44	8.44
DTE Energy Company	127.59	90.14	108.87	4.08	3.75	9.65
Duke Energy Company	118.31	83.06	100.69	4.18	4.15	10.07
Edison International	88.77	58.82	73.80	3.12	4.23	11.84
Entergy Corp.	129.66	87.10	108.38	4.52	4.17	9.09
Evergy Inc	62.24	46.92	54.58	2.57	4.71	11.26
Eversource Energy	69.01	52.03	60.52	2.86	4.73	10.03
Exelon Corporation	41.48	33.35	37.42	1.52	4.06	9.01
FirstEnergy Corp	44.97	32.18	38.58	1.70	4.41	10.67
IDACORP, Inc..	105.24	86.43	95.84	3.32	3.46	8.96
MGE Energy, Inc.	93.15	61.94	77.55	1.80	2.32	8.52
NextEra Energy, Inc.	85.56	47.15	66.36	2.06	3.10	11.14
NorthWestern Corp	57.14	45.97	51.56	2.60	5.04	10.44
OGE Energy Corp	41.48	31.25	36.37	1.67	4.59	10.44
Otter Tail Corp	100.84	68.96	84.90	1.87	2.20	8.95
PPL Corporation	32.82	22.20	27.51	1.03	3.74	10.78
TXNM Energy Inc.	45.10	34.63	39.87	1.55	3.89	7.65
Pinnacle West Capital Corp	91.57	65.20	78.39	3.52	4.49	11.12
Portland General Electric Co.	49.45	38.01	43.73	2.00	4.57	14.61
Public Service Enterprise Group	85.31	53.71	69.51	2.40	3.45	9.59
Southern Company	90.34	61.56	75.95	2.88	3.79	10.73
Xcel Energy Inc.	64.95	46.79	55.87	2.19	3.92	10.63
Group Average	76.87	54.61	65.74	2.55	3.99	10.18
Group Average G					6.20	
DCF					10.19	
			Average of Current and 52-Week		10.00	

Multiple sources of the Barometer companies' projected 5-year Earnings Per Share are used to calculate the Group Average Dividend Growth Estimate.

Development of a Representative Dividend Growth Rate for the Barometer Group of Electric Companies						
	5 Year Forecast				Average Earnings Growth	Growth Estimate
	Value Line	Value Line	Zack's	Yahoo		
	<u>DPS</u> (%)	<u>EPS</u> (%)	<u>EPS</u> (%)	<u>EPS</u> (%)		
Alliant Energy Corp	6.00	6.00	6.80	7.70	6.83	6.83
Ameren Corp	6.50	6.50	6.60	6.20	6.43	6.43
American Electric Power	5.50	6.50	6.20	6.62	6.44	6.44
Avista Corp	4.00	5.00	4.80	6.20	5.33	5.33
CMS Energy Corp	5.00	6.00	7.60	7.60	7.07	7.07
Consolidated Edison	3.50	6.00	5.60	5.70	5.77	5.77
Dominion Energy	0.50	3.00	13.60	19.50	12.03	3.00
DTE Energy Company	3.00	4.50	8.10	5.10	5.90	5.90
Duke Energy Company	2.00	5.00	6.10	6.66	5.92	5.92
Edison International	5.50	6.00	8.70	8.15	7.62	7.62
Entergy Corp.	3.50	0.50	7.30	6.95	4.92	4.92
Energy Inc	7.00	7.50	5.80	6.35	6.55	6.55
Eversource Energy	6.00	6.00	5.70	4.20	5.30	5.30
Exelon Corporation	NA	NA	5.70	4.20	4.95	4.95
FirstEnergy Corp	5.50	5.50	7.00	6.30	6.27	6.27
IDACORP, Inc..	5.50	5.50	5.50	5.50	5.50	5.50
MGE Energy, Inc.	6.50	7.00	NA	5.40	6.20	6.20
NextEra Energy, Inc.	9.00	8.00	8.10	8.00	8.03	8.03
NorthWestern Corp	2.00	4.00	6.10	6.10	5.40	5.40
OGE Energy Corp	3.00	6.50	5.20	-12.34	-0.21	5.85
Otter Tail Corp	7.00	4.50	NA	9.00	6.75	6.75
PPL Corporation	-0.50	7.50	6.80	6.80	7.03	7.03
TXNM Energy Inc.	5.00	5.00	2.50	3.78	3.76	3.76
Pinnacle West Capital Corp	1.50	4.50	8.20	7.20	6.63	6.63
Portland General Electric Co.	5.50	6.00	11.50	12.60	10.03	10.03
Public Service Enterprise Group	5.00	5.00	7.50	5.90	6.13	6.13
Southern Company	3.50	6.50	7.00	7.30	6.93	6.93
Xcel Energy Inc.	5.50	7.00	6.40	6.73	6.71	6.71
Group Average	4.52	5.59	6.94	6.41	6.29	6.19
USE						6.20
Sources:	Value Line Investment Survey, September 18, 2024					
	Zacks, September 19, 2024 (www.zacks.com)					
	Yahoo!, September 19, 2024 (http://finance.yahoo.com/)					
	* NA signifies that a forecast was not available					

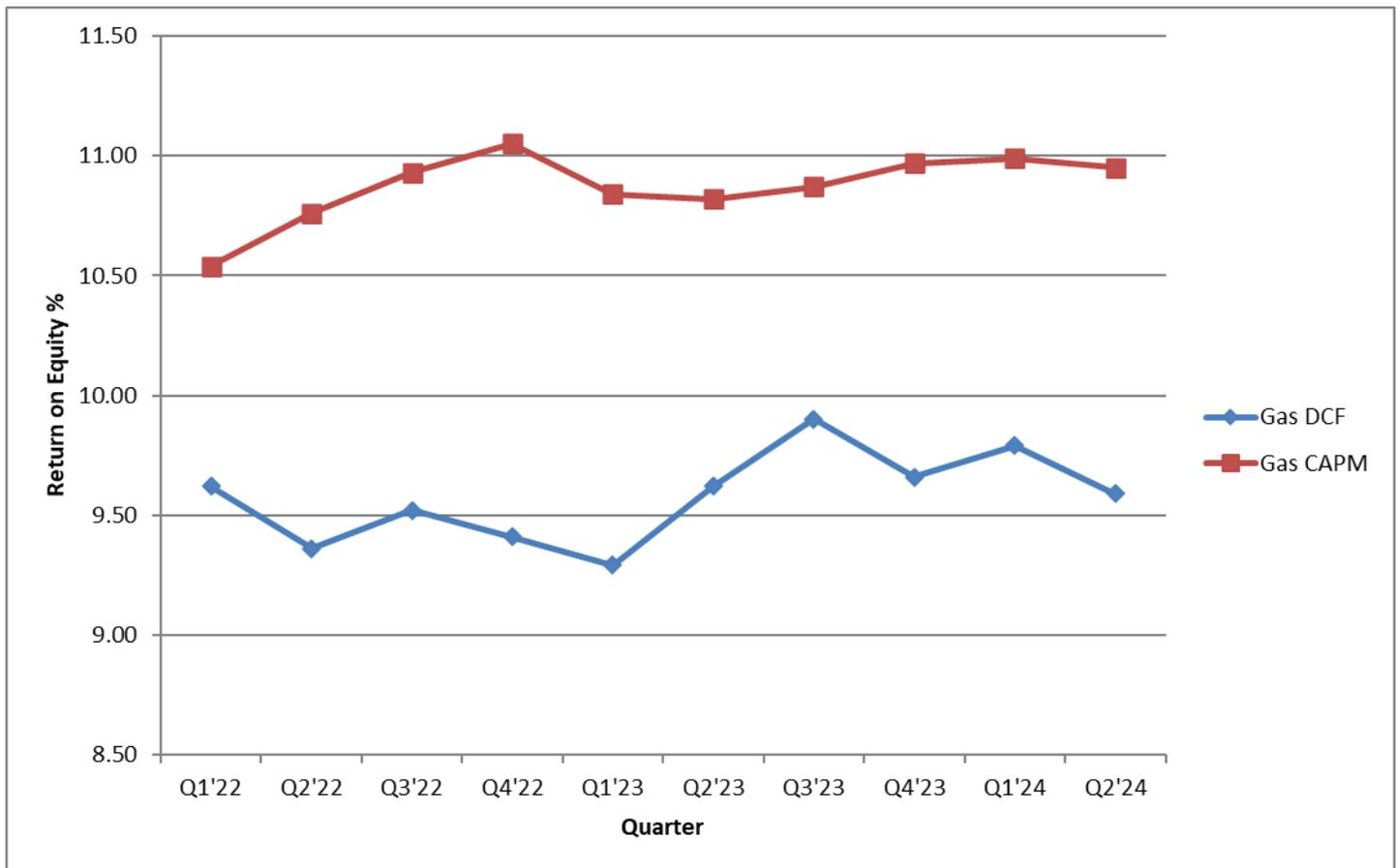
The market indicated common equity cost rate range consists of data used from the barometer groups and is based on a series of calculations to average the DCF methods.

Market Based Returns on Common Equity¹			
September 18, 2024			
<u>Gas Distribution Company Barometer Group</u>			
			Cost Rates
			<u>%</u>
(1)	Current DCF:		9.44
(2)	52-Week Average DCF:		<u>9.75</u>
(3)	Overall DCF ((1) + (2)) / 2 :		<u>9.59</u>
(4)	Market Indicated Common Equity Cost Rate Range: @ 1 standard deviation around the mean. ²		<u>8.64-10.54</u>
(5)	CAPM Check of DCF Reasonableness:		10.95
(6)	Recent Commission Approved ROEs ³ : *None within the last two years		*
(7)	Distribution System Improvement Charge (DSIC) Return ⁴ :		<u>10.15%</u>
¹ As calculated by the Bureau of Technical Utility Services			
² Standard Deviation of 16 DCF observations			
³ Base rate case ROEs within last two years, fully litigated or stipulated for DSIC			
⁴ Commission authorized Return on Equity (ROE) for DSIC purposes			
Any questions concerning DSIC should be directed to Rich Layton of the Bureau of Technical Utility Services at (717) 214-9117.			

Historic Gas Industry DCF and CAPM Average ROEs

	Gas	
	DCF	CAPM
Q1'22	9.62	10.54
Q2'22	9.36	10.76
Q3'22	9.52	10.93
Q4'22	9.41	11.05
Q1'23	9.29	10.84
Q2'23	9.62	10.82
Q3'23	9.90	10.87
Q4'23	9.66	10.97
Q1'24	9.79	10.99
Q2'24	9.59	10.95

Graph of Historic Gas Industry DCF and CAPM Average ROEs



Multiple sources of the Barometer companies' projected 5-year Earnings Per Share are used to calculate the Group Average Dividend Growth Estimate.

Development of a Representative Dividend Growth Rate for the Barometer Group of Gas Companies						
<u>5 Yr Forecast</u>						
	Value Line	Value Line	Zack's	Yahoo	Average	Growth
	<u>DPS</u>	<u>EPS</u>	<u>EPS</u>	<u>EPS</u>	<u>Growth</u>	<u>Estimate</u>
	(%)	(%)	(%)	(%)	(%)	(%)
Atmos Energy	7.50	7.00	7.00	7.40	7.13	7.13
Chesapeake Utilities Corporation	8.00	6.50	NA	7.60	7.05	7.05
New Jersey Resources	5.00	5.00	NA	6.00	5.50	5.50
NiSource Inc.	4.50	9.50	7.00	7.70	8.07	8.07
Northwest Natural Gas	0.50	6.50	NA	2.80	4.65	4.65
ONE Gas, Inc.	2.50	3.50	5.00	5.00	4.50	4.50
Southwest Gas	5.50	10.00	6.00	4.00	6.67	5.00
Spire Inc.	4.50	4.50	5.00	6.36	5.29	5.29
Group Average	4.75	6.56	6.00	5.86	6.11	5.90
USE						5.90
Sources:	Value Line Investment Survey, September 18, 2024					
	Zacks, September 19, 2024 (www.zacks.com)					
	Yahoo!, September 19, 2024 (http://finance.yahoo.com/)					
	* NA signifies that a forecast was not available					

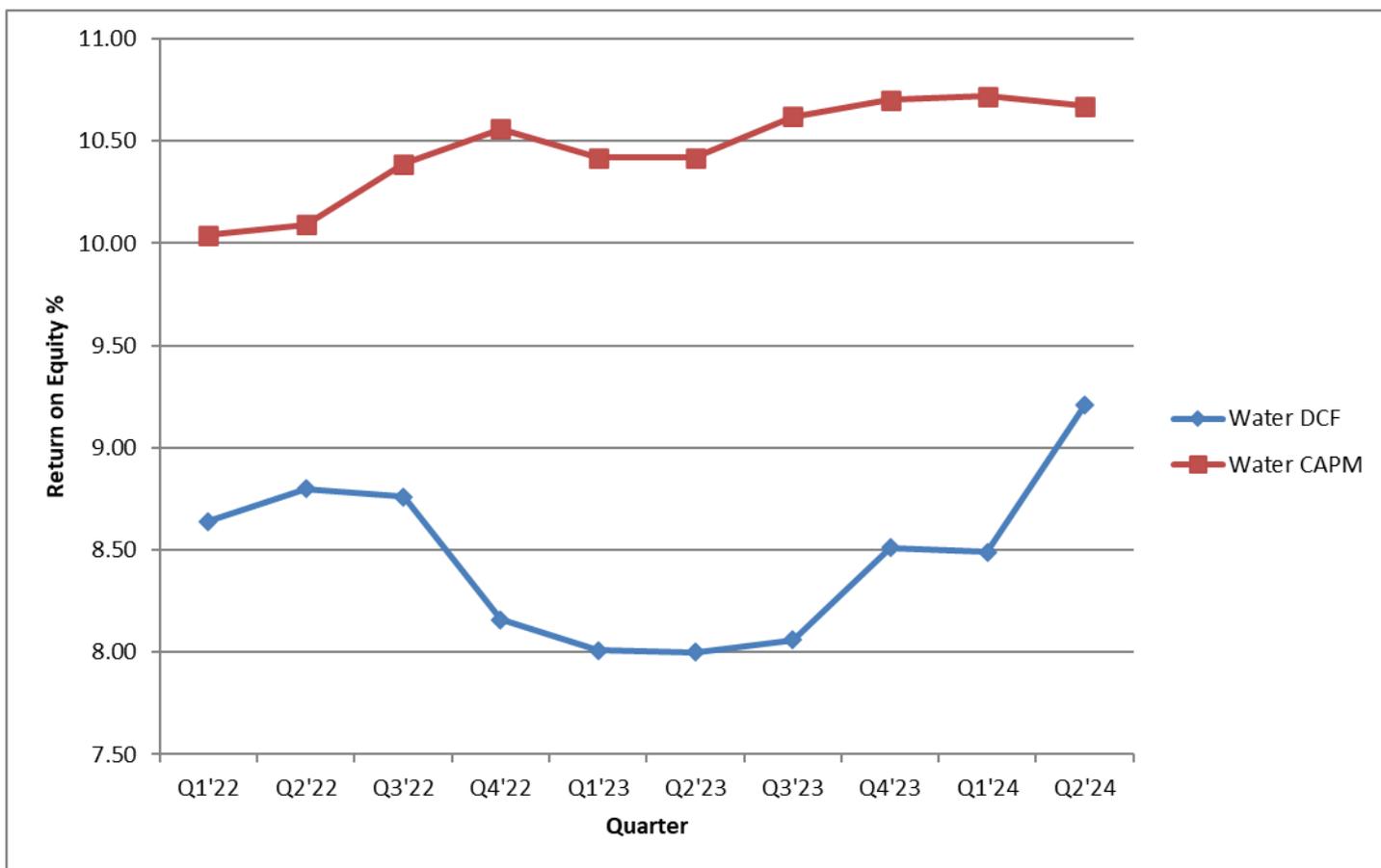
The market indicated common equity cost rate range consists of data used from the barometer groups and is based on a series of calculations to average the DCF methods.

Market Based Returns on Common Equity ¹				
September 18, 2024				
<u>Water Company Barometer Group</u>				
				Cost Rates
				<u>%</u>
(1)	Current DCF			9.16
(2)	52-Week Average DCF			9.26
(3)	Average DCF			<u>9.21</u>
(4)	Market Indicated Common Equity Cost Rate Range @ 1 standard deviation around the mean. ²			<u>7.45-10.97</u>
(5)	CAPM Check of DCF Reasonableness			10.67
(6)	Recent Commission Approved ROEs ³ :			
	Columbia Water Company, R-2023-3040258			9.75
	Pennsylvania-American water Company, R-2023-3043189			9.45
(7)	Distribution System Improvement Charge (DSIC) Return ⁴ :			<u>9.65%</u>
¹ As calculated by the Bureau of Technical Utility Services				
² Standard Deviation of 12 DCF observations				
³ ROEs from base rate cases within last two years, fully litigated or stipulated for DSIC purposes				
⁴ Commission authorized Return on Equity (ROE) for DSIC purposes				
Any questions concerning DSIC should be directed to Rich Layton of the Bureau of Technical Utility Services at (717) 214-9117.				

Historic Water Industry DCF and CAPM Average ROEs

Water		
	DCF	CAPM
Q1'22	8.64	10.04
Q2'22	8.80	10.09
Q3'22	8.76	10.39
Q4'22	8.16	10.56
Q1'23	8.01	10.42
Q2'23	8.00	10.42
Q3'23	8.06	10.62
Q4'23	8.51	10.70
Q1'24	8.49	10.72
Q2'24	9.21	10.67

Chart of Historic Water Industry DCF and CAPM Average ROEs



Multiple sources of the Barometer companies' projected 5-year Earnings Per Share are used to calculate the Group Average Dividend Growth Estimate.

Development of a Representative Dividend Growth Rate for the Barometer Group of Water Companies						
	<u>5 Yr Forecast</u>					
	Value Line	Value Line	Zacks	Yahoo	Average Earnings	Growth
	<u>DPS</u>	<u>EPS</u>	<u>EPS</u>	<u>EPS</u>	<u>Growth</u>	<u>Estimate</u>
	(%)	(%)	(%)	(%)	(%)	(%)
American States Water Company	8.50	6.50	6.30	4.40	5.73	5.73
American Water Works Co., Inc.	8.50	4.50	8.00	7.50	6.67	6.67
California Water Service Group	6.00	10.00	NA	10.80	10.40	10.00
Essential Utilities, Inc.	8.00	7.00	5.80	5.20	6.00	6.00
Middlesex Water Company	5.00	6.50	NA	2.70	4.60	4.60
SJW Group	4.50	6.50	7.50	7.50	7.17	7.17
Group Average	6.75	6.83	6.90	6.35	6.76	6.69
USE						6.70
Sources:	Value Line Investment Survey, September 18, 2024					
	Zacks, September 19, 2024 (www.zacks.com)					
	Yahoo!, September 19, 2024 (http://finance.yahoo.com/)					
	* NA signifies that a forecast was not available					

Appendix B

OCA Subpoena Applications

3/18/25

Gas and Electric

COMMONWEALTH OF PENNSYLVANIA



DARRYL A. LAWRENCE
Interim Acting Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
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✕ @pa_oca
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consumer@paoca.org
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March 18, 2025

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission
v.
Pike County Light & Power Company -
Gas
Docket No. R-2024-3052357

Dear Secretary Chiavetta:

Attached for electronic filing, please find the Office of Consumer Advocate's Notice to Plead, Application for the Issuance of Subpoena, and Subpoena in this proceeding.

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

Respectfully submitted,

/s/ Jacob Guthrie
Jacob Guthrie
Assistant Consumer Advocate
Pa. Attorney I.D. # 334367
JGuthrie@paoca.org

Enclosures

cc: The Honorable Alphonso Arnold III (email only: alphonarno@pa.gov)
The Honorable Marta Guhl (email only: mguhl@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v : Docket No. R-2024-3052357
Pike County Light & Power Company :

I hereby certify that I have this day served a true copy of the following documents, the Notice to Plead, Application for the Issuance of Subpoena, and Subpoena of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 18th day of March 2025.

SERVICE BY E-MAIL ONLY

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Michael Podskoch, Esquire
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sgray@pa.gov
Counsel for Office of Small Business Advocate

Paul Diskin, Bureau Director
Bureau of Technical Utility Services
Commonwealth Keystone Building,
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pdiskin@pa.gov

/s/ Jacob Guthrie
Jacob Guthrie
Assistant Consumer Advocate
Pa. Attorney I.D. # 334367
JGuthrie@paoca.org

Ryan Morden
Assistant Consumer Advocate

Melanie Joy El Atieh
Deputy Consumer Advocate
OCAPIKEBRC2024@paoca.org

Counsel for:
Darryl A. Lawrence
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048

Dated: March 18, 2025

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
v	:	Docket No. R-2024-3052357
Pike County Light & Power Company	:	
(Gas)	:	

NOTICE TO PLEAD

You are hereby advised to file a written response or objection within 5 days to the attached Office of Consumer Advocate's (OCA) Application for Issuance of Subpoena in the captioned proceeding. If you do not file a written response to OCA's Application, the presiding officers may rule in favor of OCA as to the attached Application.

All pleadings, such as responses or objections to applications, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

All pleadings, such as responses or objections to applications, must be served on all persons identified on the attached certificate of service, as well as the assigned presiding officers for this proceeding:

Hon. Marta Guhl, Administrative Law Judge
Hon. Alphonso Arnold III, Administrative Law Judge
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107
mguh@pa.gov
dheep@pa.gov

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket No. R-2024-3052357
v	:	
Pike County Light & Power Company	:	
(Gas)	:	

APPLICATION OF THE OFFICE OF CONSUMER ADVOCATE
FOR THE ISSUANCE OF SUBPOENA

Pursuant to 52 Pa. Code Section 5.421, the Office of Consumer Advocate (OCA) hereby files this Application for issuance of a subpoena to obtain workpapers from the Pennsylvania Public Utility Commission’s (Commission) Bureau of Technical Utility Services (TUS) from its Quarterly Earnings Reports (QERs), specifically the reports titled “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities” both “for the Year Ended June 30, 2024” (*June 2024 QER*)¹ and “for the Year Ended September 30, 2024” (*Sept 2024 QER*),² available at Docket Numbers M-2024-3051104 and M-2025-3053025, respectively. The OCA hereby requests that Administrative Law Judges (ALJs) Marta Guhl and Alphonso Arnold III issue the subpoena order, attached hereto as Exhibit A, pursuant to the provisions of 52 Pa. Code Section 5.421, and in support thereof provides the following:

I. INTRODUCTION

1. On December 30, 2024, Pike County Light & Power Company (Pike or the Company) filed Supplement No. 127 to Tariff Gas – Pa. P.U.C. No. 6, with the Pennsylvania Public Utility Commission, to become effective on February 28, 2025.

¹ Available at: <https://www.puc.pa.gov/pcdocs/1852340.pdf>.

² Available at: <https://www.puc.pa.gov/pcdocs/1865077.pdf>.

2. On January 8, 2025, the OCA filed a Formal Complaint and Public Statement to protect the interests of consumers in the Company's service territory and to ensure that the Company is permitted to implement only a level of rates that is just and reasonable and in accordance with sound ratemaking principles.

3. On January 17, 2025, Pike filed Supplement No. 128 to Tariff Gas – Pa. P.U.C. No. 6 with the Commission to voluntarily postpone the effective date of the tariff filing to March 15, 2025. Pike filed the suspension postponement so the gas tariff case can run concurrently with a request for increase in rates from the Company's gas customers.

4. On February 6, 2025, the Commission issued an Order that initiated an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase and the Company's existing rates, rules, and regulations, assigned this matter to the OALJ for further proceedings as appropriate, and suspended the effective date of the tariff until October 15, 2025.

5. The presiding ALJs, The Honorable Marta Guhl and Alphonso Arnold III, held a duly noticed Prehearing Conference on February 14, 2025.

II. GROUNDS FOR SUBPOENA

6. The Company proposes to increase rates to produce additional annual operating revenues of \$905,900 per year or an overall increase of 35.8% in total gas revenues, based on a proposed return on equity of 10.20% for an overall rate of return of 8.59% on its requested rate base balance.

7. Pike supported its requested claimed ROE by stating: “[f]or revenue requirement purposes, we rounded the [ROE] from the Gas Distribution System Improvement Charge (DSIC) Eligible Utilities Return on Equity Summary, as published for September 18, 2024. The Company

is willing to accept the generic ROE return made by the [C]ommission in order to minimize rate case costs to its customers.” Pike St. 2 at 23:14-21; *see also* Exh. G-2, Sch. 3.

8. Based on discovery conducted in this proceeding, the OCA believes the Gas Distribution System Improvement Charge (DSIC) Eligible Utilities Return on Equity Summary referenced in Pike St. 2 is the *June 2024 QER*.

9. In the *June 2024 QER*, the Commission included a “market indicated common equity cost rate range” which “consists of data used from the barometer groups and is based on a series of calculations to average the DCF methods.” Based on its analysis, the QER provides a Commission-authorized ROE for DSIC purposes of 10.15% for gas distribution companies. In support of this calculation, the QER provides a current Discount Cash Flow (DCF) result, 52-week average DCF result, average of the current and 52-week average DCF result, a market-indicated range within one standard deviation of the mean of 16 DCF observations, and a Capital Asset Pricing Model (CAPM) check of DCF reasonableness. *June 2024 QER*, Att. G, p. 23.’

10. Pursuant to 52 Pa. Code Section 5.222(d), the OCA submitted a pre-hearing memorandum which included a list of presently identified issues to be analyzed and presented by the OCA with the assistance of its expert witnesses. Section II, A. Rate of Return, of the OCA Prehearing Memo included the following:

- A. The OCA will perform a detailed analysis of the cost of common equity claimed by the Company as well as the overall rate of return as claimed by the Company.
- B. The OCA will examine whether the capital structure proposed by the Company is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.
- C. The OCA will examine the embedded cost of debt claimed by the Company to determine whether it is reasonable and appropriate for ratemaking purposes.

- D. The OCA will examine the impact of Company's proposed alternative ratemaking mechanisms on its risk profile.

OCA Prehearing Memorandum at 3.

11. In its Prehearing Memorandum, OCA provided notice to parties that it intended to submit expert testimony on issues pertaining to rate of return. OCA Prehearing Memorandum at 8.

12. On February 20, 2025, the OCA propounded its Fifth Set of Interrogatories to the Company's gas division. OCA-5-4 read as follows: "Referencing Lenns and Lenns Direct Testimony at 23:11-21 and Exhibit E-2, Schedule 3, provide support for the Company's proposed return on equity of 10.20%. Include relevant case numbers and PUC decisions in your response, along with copies of all supporting PUC decisions and all filed rate of return testimony." OCA-5-4.

13. On March 3, 2025, Pike provided the following response to OCA-5-4:

Refer to the "DSIC Charge Return on Equity" attachment provided.³ The Company stated in the testimony that the 10.20% is the rounded return on equity from the Gas Distribution System Improvement Charge ("DSIC") Eligible Utilities Return on Equity Summary, which is included on page 15 of 30 on the PDF file. The return on equity published is 10.15%. This report is published on the Pennsylvania Public Utility Commission's website under the "Filing & Resources" section, then under the "Reports" you will see "Quarterly Earnings Summary Reports." This report is published every quarter with the commission approved return on equity number.

14. On February 20, 2025, the OCA also propounded OCA-5-5, which reads as follows: "Referencing Lenns and Lenns Direct Testimony at 23:11-21, explain past PUC precedent for

³ The referenced attachment is the TUS Quarterly Earnings Report for the year ended June 30, 2024, at Docket No. M-2024-3051104.

determining ‘the generic ROE return made by the commission’. Also provide all relevant PUC decisions or orders.”

15. On March 3, 2025, Pike provided the following response to OCA-5-5:

Counsel notes that as a legal matter, PUC decisions do not constitute precedent. Pike’s counsel will address this as a legal matter in briefing. Accordingly, Pike provides the basis for the proposed use of the Commission’s published quarterly return on equity:

The Company has used the Commission’s published quarterly return on equity as an attempt to save rate case expense for rate payers. As previously explained, the Company will provide a rebuttal expert if other parties deem it necessary to present rate of return expert witnesses.

16. Pike did not provide workpapers or other documents which support its proposed ROE of 10.20% because it provides no analysis to support its recommendation; rather, Pike merely points to the analysis performed by TUS in the *June 2024 QER* as support for its recommendation without providing the documents utilized in TUS’s analysis.

17. Pursuant to Section 5.421 of the Commission’s regulations, a party may apply for a subpoena duces tecum by setting forth in writing the relevance, materiality, and scope of the evidence sought as well as the information which the party is seeking from the subpoena in order to indicate necessity. 52 Pa. Code Section 5.421.

18. To fully investigate the just and reasonableness of Pike’s proposed return on equity, the OCA files this Subpoena to compel TUS to provide its workpapers used to develop the *June 2024 QER*. Specifically, the OCA is seeking the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachment G of the *June 2024 QER*.

19. Without this information, the OCA will be unable to perform a fully detailed analysis of the Company’s cost of equity proposal. The OCA will be unable to fully determine

whether the Company's overall requested rate of return is appropriate and reasonable for use in establishing Pike's revenue requirement and resultant rates.

20. Attachment G, p. 23 of the *June 2024 QER* includes information which indicates that 16 DCF observations, and at least one CAPM observation, are made in support of the DSIC Return of 10.15%. Further, there is no indication in the *June 2024 QER* how the value of 10.15% was selected from the "Market Indicated Common Equity Cost Rate Range."

21. Based on the *June 2024 QER*, the OCA's expert witness in rate of return is unable to determine how the Commission authorized ROE for DSIC purposes was calculated and, therefore, is unable to assess the reasonableness of Pike's proposal to use that ROE in its rate filing.

22. If the OCA is unable to address Pike's proposed ROE, it will not be able to effectively advocate on behalf of consumers with respect to the determination of an appropriate ROE for ratemaking purposes in this proceeding. 71 P.S. Section 309-4(a).

23. The OCA is unable to obtain the workpapers which support Pike's proposed ROE because they are in the possession of TUS, which is not party to this proceeding, through normal means of discovery and, therefore, the OCA must make its request through a subpoena. 52 Pa. Code Section 5.343(a) ("A person who is not a party is not required to appear [for a deposition] unless subpoenaed."); 52 Pa. Code Section 5.343(d) (a notice of deposition may include a request for the production of documents); 52 Pa. Code Section 5.421.

24. On February 6, 2025, the Commission posted its latest QER titled "Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024" (*Sept. 2024 QER*), filed under docket number M-2025-3053025. The OCA will incorporate the most up-to-date data provided in the *Sept. 2024 QER* to provide a fully detailed analysis of the Company's cost of equity proposal. In order to investigate the just and

reasonableness of Pike’s proposed return on equity, the OCA files this Subpoena to compel TUS to additionally provide its workpapers to used to develop the *Sept. 2024 QER*. Specifically, the OCA is seeking the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachment G of the *Sept. 2024 QER*.

25. The workpapers are within the scope of discovery because they relate to the claim of Pike that it is entitled to an ROE of 10.20%. In a proceeding wherein a utility supports its ROE request through the use of a cost of capital witness, the OCA routinely requests the workpapers of that witness in order to understand the basis for the witness’s recommendation. In this proceeding, the OCA seeks to understand the basis for TUS’s selection of 10.15% as the Commission approved DSIC ROE and, therefore, must request TUS’s workpapers. 52 Pa. Code Section 5.321.

26. The OCA submits that the requested workpapers are not privileged and are public documents under the Right to Know Law, not subject to any exceptions. *See* 65 P.S. Section 67.708(b) (providing the exceptions to the Right to Know Law, none of which apply to the requested documents).⁴ Additionally, the requested subpoena would not cause TUS an unreasonable burden or require TUS to make an unreasonable investigation in order to procure the requested workpapers. 52 Pa. Code Section 5.361(a) (discovery is not permitted which would cause an unreasonable burden or the making of an unreasonable investigation by a deponent, person, or party). Furthermore, TUS providing the OCA with the requested workpapers imposes the least burden on all parties, including TUS, by eliminating the need for parties to reproduce TUS’s analysis in the quested workpapers to verify the veracity of Pike’s ROE request and by

⁴ The OCA notes that, to the extent a party may claim that the requested are workpapers are “predecisional deliberations” within the meaning of that term under the Right to Know Law, that exception does not apply to the requested workpapers. Only confidential deliberations of law or policymaking which reflect opinions, recommendations, or advice are exempt under the “predecisional deliberations” exceptions; purely factual material is not includable as “predecisional deliberations.” *Pa. PUC v. Nase*, 302 A.3d 264, 272 (Pa. Cmwlth. 2023). The requested workpapers contain financial data and related information which is purely factual.

forgoing a request for the workpapers under the Right to Know Law. Therefore, the issuance of the requested subpoena is within the scope of discovery. *Id.*

III. REQUEST FOR EXPEDITED TREATMENT

27. The deadline established by the Prehearing Order in this proceeding, issued February 26, 2025, as corrected on March 14, 2025, for non-Company Direct Testimony, which includes the OCA's direct testimony, is April 3, 2025.

28. The OCA's expert witness on rate of return and cost of capital issues plans to present a comprehensive analysis of the Company's requested ROE and the witness' analysis would be incomplete without the *June 2024 QER* and *Sept. 2024 QER* workpapers.

29. The OCA will suffer prejudice if it is unable to present a comprehensive analysis of the Company's requested ROE.

30. On March 10, 2025, the OCA contacted and conferred with counsel for the Commission to find the best approach for requesting the *June 2024 QER* and *Sept. 2024 QER* workpapers. Counsel for the Commission indicated that if the OCA were to receive copies of the requested workpapers, it should apply for a subpoena to procure the requested workpapers, pursuant to 52 Pa. Code Sections 5.343 and 5.421. As a result, counsel for the Commission has had over one week's notice that the instant Application would be filed.

31. Therefore, the OCA requests that the response period to this application be shortened from ten (10) days to five (5); the OCA requests that the Honorable ALJs issue the Subpoena Order within two (2) days after the close of the response period; and TUS by and through its counsel provide the requested material to the OCA within three (3) days thereafter, pursuant to the issued Subpoena Order. 52 Pa. Code Sections 5.421(f) (providing a 10 day response period for the filing of objections to an application for a subpoena), 5.344(b) (an application for a subpoena

will be granted unless objected-to within 10 days), 5.343(a)(d) (a subpoenaed witness is given 20 days' notice prior to the taking of an oral deposition and/or request for the production of documents).

IV. CONCLUSION

32. Pursuant to 52 Pa. Code Section 5.343(e), the OCA hereby names the Pennsylvania Public Utility Commission's Bureau of Technical Utility Services as the subject of the OCA's subpoena. Based upon the OCA's knowledge, information, and belief, the address of TUS is as follows:

Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room-N201
Harrisburg, PA 17120

A proposed subpoena to be delivered to TUS is attached to this Application. Upon approval of this Application, the OCA will effectuate service of the subpoena upon TUS by and through its counsel, the Commission's Law Bureau.

WHEREFORE, for the aforementioned reasons, the OCA submits that it is appropriate to issue a subpoena compelling the disclosure by TUS of the workpapers underlying its DCF and CAPM analyses pertaining to the market-based return on equity for natural gas distribution companies in the Quarterly Earnings Report for the Second Quarter of 2024, found at docket number M-2024-3051104, Attachment G and in the Quarterly Earnings Report for the Third Quarter of 2024, found at docket number M-2025-3053025, Attachment G. If such workpapers are not provided, the OCA will not be able to adequately represent the interests of ratepayers by addressing Pike County's claimed return on equity for its gas operations. As such, the OCA respectfully requests Administrative Law Judges Guhl and Arnold to issue the attached subpoena duces tecum directed to the Commission's Bureau Technical Utility Services.

Respectfully Submitted,

/s/ Jacob Guthrie

Jacob Guthrie
Assistant Consumer Advocate
Pa. Attorney I.D. # 334367
JGuthrie@paoca.org

Ryan Morden
Assistant Consumer Advocate
Pa. Attorney I.D. # 335679
RMorden@paoca.org

Melanie Joy El Atieh
Deputy Consumer Advocate
Pa. Attorney I.D. # 209323
MElAtieh@paoca.org

Counsel for:
Darryl A. Lawrence
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: March 18, 2025

Exhibit A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v : Docket No. R-2024-3052357
Pike County Light & Power Company :
(Gas) :

SUBPOENA

To: Paul Diskin, Director
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services.
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Pursuant to the authority of this Commission under Sections 309, 331(d)(2), and 333(j) of the Public Utility Code:

YOU ARE ORDERED by the Commission to provide within the next three (3) calendar days to the Office of Consumer Advocate (OCA):

1. Workpapers used to develop the report titled “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024,” including the Excel files, in native format with links and formulae intact, and all linked Excel files, supporting the DCF and CAPM results which are provided in Attachment G of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024.

2. Workpapers used to develop the report titled “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024,” including the Excel files, in native format with links and formulae intact, and all linked

Excel files, supporting the DCF and CAPM results which are provided in Attachment G of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024.

This subpoena is issued subject to the provisions of 52 Pa. Code Section 5.421 (with regard to the issuance, notice, service and witness fees).

BY THE COMMISSION

Date: _____

Marta Guhl
Administrative Law Judge

Date: _____

Alphonso Arnold III
Administrative Law Judge

COMMONWEALTH OF PENNSYLVANIA



DARRYL A. LAWRENCE
Interim Acting Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

✕ @pa_oca
f /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

March 18, 2025

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission
v.
Pike County Light & Power Company -
Electric
Docket No. R-2024-3052359

Dear Secretary Chiavetta:

Attached for electronic filing, please find the Office of Consumer Advocate's Notice to Plead, Application for the Issuance of Subpoena, and Subpoena in this proceeding.

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

Respectfully submitted,

/s/ Jacob Guthrie
Jacob Guthrie
Assistant Consumer Advocate
Pa. Attorney I.D. # 334367
JGuthrie@paoca.org

Enclosures

cc: The Honorable Alphonso Arnold III (email only: alphonarno@pa.gov)
The Honorable Marta Guhl (email only: mguhl@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v : Docket No. R-2024-3052359
Pike County Light & Power Company :

I hereby certify that I have this day served a true copy of the following documents, the Notice to Plead, Application for the Issuance of Subpoena, and Subpoena of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 18th day of March 2025.

SERVICE BY E-MAIL ONLY

Carrie B. Wright, Esquire
Michael Podskoch, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P. O. Box 3265
Harrisburg, PA 17105-3265
carwright@pa.gov
mpodskoch@pa.gov
Counsel for I&E

Whitney E. Snyder, Esquire
Erich W. Struble, Esquire
HMS Legal LLP f/k/a
Hawke McKeon and Sniscak LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
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ewstruble@hmslegal.com
Counsel for Pike County L&P

Chris Van de Verg, Deputy Chief Counsel
David Screven, Chief Counsel
Law Bureau
Commonwealth Keystone Building,
400 North Street, 2nd Floor,
Harrisburg, PA 17120
cvandeverg@pa.gov
dscreven@pa.gov
Counsel for Commission

Rebecca Lyttle, Esquire
Steven C. Gray, Esquire
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
relyttle@pa.gov
sgray@pa.gov
Counsel for Office of Small Business Advocate

Paul Diskin, Bureau Director
Bureau of Technical Utility Services
Commonwealth Keystone Building,
400 North Street, 2nd Floor,
Harrisburg, PA 17120
pdiskin@pa.gov

/s/ Jacob Guthrie
Jacob Guthrie
Assistant Consumer Advocate
Pa. Attorney I.D. # 334367
JGuthrie@paoca.org

Ryan Morden
Assistant Consumer Advocate

Melanie Joy El Atieh
Deputy Consumer Advocate
OCAPIKEBRC2024@paoca.org

Counsel for:
Darryl A. Lawrence
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048

Dated: March 18, 2025

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
v	:	Docket No. R-2024-3052359
Pike County Light & Power Company	:	
(Electric)	:	

NOTICE TO PLEAD

You are hereby advised to file a written response or objection within 5 days to the attached Office of Consumer Advocate's (OCA) Application for Issuance of Subpoena in the captioned proceeding. If you do not file a written response to OCA's Application, the presiding officers may rule in favor of OCA as to the attached Application.

All pleadings, such as responses or objections to applications, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

All pleadings, such as responses or objections to applications, must be served on all persons identified on the attached certificate of service, as well as the assigned presiding officers for this proceeding:

Hon. Marta Guhl, Administrative Law Judge
Hon. Alphonso Arnold III, Administrative Law Judge
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
801 Market Street, Suite 4063
Philadelphia, PA 19107
mguh@pa.gov
dheep@pa.gov

2. On January 24, 2025, the OCA filed a Formal Complaint, Public Statement and Notice of Appearance to protect the interests of consumers in the Company's service territory and to ensure that the Company is permitted to implement only a level of rates that is just and reasonable and in accordance with sound ratemaking principles.

3. On February 6, 2025, the Commission issued an Order that initiated an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase and the Company's existing rates, rules, and regulations, assigned this matter to the OALJ for further proceedings as appropriate, and suspended the effective date of the tariff until October 15, 2025.

4. The presiding ALJs, the Honorable Marta Guhl and Alphonso Arnold III, held a duly noticed Prehearing Conference on February 14, 2025.

II. GROUNDS FOR SUBPOENA

5. The Company proposes to increase rates to produce additional annual operating revenues of \$2,143,900, or an overall increase of 29.1% in total electric revenues, based on a proposed return on equity (ROE) of 9.75%³ for an overall rate of return of 8.37% on its rate base balance.

6. Pike supported its requested claimed ROE by stating: “[f]or revenue requirement purposes, we rounded the [ROE] from the Electric Distribution System Improvement Charge (DSIC) Eligible Utilities Return on Equity Summary, as published for September 18, 2024. The Company is willing to accept the generic ROE return made by the [C]ommission in order to minimize rate case costs to its customers.” Pike St. 2 at 20:18-21 and 21:1-6; *see also* Exh. E-2, Sch. 3.

³ As described *infra*, the *June 2024 QER* provides a DSIC return for electric companies of 9.90%. Pike claims that they have rounded the DSIC return of 9.90% to achieve their requested ROE of 9.75%.

7. Based on discovery conducted in this proceeding, the OCA believes the Electric Distribution System Improvement Charge (DSIC) Eligible Utilities Return on Equity Summary referenced in Pike St. 2 is the *June 2024 QER*.

8. In the *June 2024 QER*, the Commission included a “market indicated common equity cost rate range” which “consists of data used from the barometer groups and is based on a series of calculations to average the DCF methods.” Based on its analysis, the QER provides a Commission-authorized ROE for DSIC purposes of 9.90% for electric companies. In support of these calculations, the QER provides a current Discount Cash Flow (DCF) result, 52-week average DCF result, average of the current and 52-week average DCF result, a market-indicated range within one standard deviation of the mean of 16 DCF observations, and a Capital Asset Pricing Model (CAPM) check of DCF reasonableness. *June 2024 QER*, Att. F, p. 18.

9. Pursuant to 52 Pa. Code Section 5.222(d), the OCA submitted a pre-hearing memorandum which included a list of presently identified issues to be analyzed and presented by the OCA with the assistance of its expert witnesses. Section II, A. Rate of Return, of the OCA Prehearing Memo. included the following:

A. The OCA will perform a detailed analysis of the cost of common equity claimed by the Company as well as the overall rate of return as claimed by the Company.

B. The OCA will examine whether the capital structure proposed by the Company is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

C. The OCA will examine the embedded cost of debt claimed by the Company to determine whether it is reasonable and appropriate for ratemaking purposes.

D. The OCA will examine the impact of Company’s proposed alternative ratemaking mechanisms on its risk profile.

OCA Prehearing Memo. at 4.

10. In its Prehearing Memo., OCA provided notice to parties that it intended to submit expert testimony on issues pertaining to rate of return. OCA Prehearing Memo. at 8.

11. On February 20, 2025, the OCA propounded its Sixth Set of Interrogatories to the Company's electric division. OCA-6-4 read as follows: "Referencing Lenns and Lenns Direct Testimony at 20:18-21 and Exhibit E-2, Schedule 3, provide support for the Company's proposed return on equity of 9.75%. Include relevant case numbers and PUC decisions in your response, along with copies of all supporting PUC decisions and all filed rate of return testimony." OCA-6-4.

12. On March 3, 2025, Pike provided the following response to OCA-6-4:

Refer to the "DSIC Charge Return on Equity" attachment provided.⁴ The Company stated in the testimony that the 9.75% is the rounded return on equity from the Electric Distribution System Improvement Charge ("DSIC") Eligible Utilities Return on Equity Summary, which is included on page 15 of 30 on the PDF file. The return on equity published is 9.75%. This report is published on the Pennsylvania Public Utility Commission's website under the "Filing & Resources" section, then under the "Reports" you will see "Quarterly Earnings Summary Reports." This report is published every quarter with the commission approved return on equity number.

13. On February 20, 2025, the OCA also propounded OCA-6-5, which reads as follows: "Referencing Lenns and Lenns Direct Testimony at 21:3-6, explain past PUC precedent for determining 'the generic ROE return made by the commission'. Also provide all relevant PUC decisions or orders."

14. On March 3, 2025, Pike provided the following response to OCA-6-5: "Refer to question #4 above for details."

⁴ The referenced attachment is the *July 2024 QER*.

15. Pike did not provide workpapers or other documents which support its proposed ROE of 9.75% because it provides no analysis to support its recommendation; rather, Pike merely points to the analysis performed by TUS in the *June 2024 QER* as support for its recommendation without providing the documents utilized in TUS's analysis.

16. Pursuant to Section 5.421 of the Commission's regulations, a party may apply for a subpoena duces tecum by setting forth in writing the relevance, materiality, and scope of the evidence sought as well as the information which the party is seeking from the subpoena in order to indicate necessity. 52 Pa. Code Section 5.421.

17. To fully investigate the just and reasonableness of Pike's proposed return on equity, the OCA files this Subpoena to compel TUS to provide its workpapers used to develop the *June 2024 QER*. Specifically, the OCA is seeking the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachments F of the *June 2024 QER*.

18. Without this information, the OCA will be unable to perform a fully detailed analysis of the Company's cost of equity proposal. The OCA will be unable to fully determine whether the Company's overall requested rate of return is appropriate and reasonable for use in establishing Pike's revenue requirement and resultant rates.

19. Attachment F, p. 18, of the *June 2024 QER* includes information which indicates that 16 DCF observations, and at least one CAPM observation, are made in support of the DSIC Return of 9.90%. Further, there is no indication in the *June 2024 QER* how the values of 9.90% was selected from the "Market Indicated Common Equity Cost Rate Range."

20. Based on the *June 2024 QER*, the OCA's expert witness in rate of return is unable to determine how the Commission authorized ROE for DSIC purposes was calculated and, therefore, is unable to assess the reasonableness of Pike's proposal to use that ROE in its rate filing.

21. If the OCA is unable to address Pike's proposed ROE, it will not be able to effectively advocate on behalf of consumers with respect to the determination of an appropriate ROE for ratemaking purposes in this proceeding. 71 P.S. Section 309-4(a).

22. The OCA is unable to obtain the workpapers which support Pike's proposed ROE because they are in the possession of TUS, which is not party to this proceeding, through normal means of discovery and, therefore, the OCA must make its request through a subpoena. 52 Pa. Code Section 5.343(a) ("A person who is not a party is not required to appear [for a deposition] unless subpoenaed."); 52 Pa. Code Section 5.343(d) (a notice of deposition may include a request for the production of documents); 52 Pa. Code Section 5.421.

23. On February 6, 2025, the Commission posted its latest QER titled "Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024" (*Sept. 2024 QER*), filed under docket number M-2025-3053025. The OCA will incorporate the most up-to-date data provided in the *Sept. 2024 QER* to provide a fully detailed analysis of the Company's cost of equity proposal. In order to investigate the just and reasonableness of Pike's proposed return on equity, the OCA files this Subpoena to compel TUS to additionally provide its workpapers to used to develop the *Sept. 2024 QER*. Specifically, the OCA is seeking the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachment F of the *Sept. 2024 QER*.

24. The workpapers are within the scope of discovery because they relate to the claim of Pike that it is entitled to an ROE of 9.75%. In a proceeding wherein a utility supports its ROE

request through the use of a cost of capital witness, the OCA routinely requests the workpapers of that witness in order to understand the basis for the witness's recommendation. In this proceeding, the OCA seeks to understand the basis for TUS's selection of Commission approved DSIC ROEs and, therefore, must request TUS's workpapers. 52 Pa. Code Section 5.321.

25. The OCA submits that the requested workpapers are not privileged and are public documents under the Right to Know Law, not subject to any exceptions. *See* 65 P.S. Section 67.708(b) (providing the exceptions to the Right to Know Law, none of which apply to the requested documents).⁵ Additionally, the requested subpoena would not cause TUS an unreasonable burden or require TUS to make an unreasonable investigation in order to procure the requested workpapers. 52 Pa. Code Section 5.361(a) (discovery is not permitted which would cause an unreasonable burden or the making of an unreasonable investigation by a deponent, person, or party). Furthermore, TUS providing the OCA with the requested workpapers imposes the least burden on all parties, including TUS, by eliminating the need for parties to reproduce TUS's analysis in the requested workpapers to verify the veracity of Pike's ROE request and by forgoing a request for the workpapers under the Right to Know Law. Therefore, the issuance of the requested subpoena is within the scope of discovery. *Id.*

III. REQUEST FOR EXPEDITED TREATMENT

⁵ The OCA notes that, to the extent a party may claim that the requested are workpapers are "predecisional deliberations" within the meaning of that term under the Right to Know Law, that exception does not apply to the requested workpapers. Only confidential deliberations of law or policymaking which reflect opinions, recommendations, or advice are exempt under the "predecisional deliberations" exceptions; purely factual material is not includable as "predecisional deliberations." *Pa. PUC v. Nase*, 302 A.3d 264, 272 (Pa. Cmwlth. 2023). The requested workpapers contain financial data and related information which is purely factual.

26. The deadline established by the Prehearing Order in this proceeding, issued on February 26, 2025, as Corrected on March 14, 2025, for non-Company Direct Testimony, which includes the OCA's direct testimony is April 3, 2025.

27. The OCA's expert witness on rate of return and cost of capital issues plans to present a comprehensive analysis of the Company's requested ROE and the witness' analysis would be incomplete without the *June 2024 QER* and *Sept. 2024 QER* workpapers.

28. The OCA will suffer prejudice if it is unable to present a comprehensive analysis of the Company's ROE.

29. On March 10, 2025, the OCA contacted and conferred with counsel for the Commission to find the best approach for requesting the *June 2024 QER* and *Sept. 2024 QER* workpapers. Counsel for the Commission indicated that if the OCA were to receive copies of the requested work papers, it should apply for a subpoena to procure the requested workpapers pursuant to 52 Pa. Code Sections 5.343 and 5.421. a Subpoena Application to request that the ALJs in this proceeding compel TUS to provide the documents. As a result, counsel for the Commission has had over one week's notice that the instant Application would be filed.

30. Therefore, the OCA requests that the response period to this application be shortened from ten (10) days to five (5); the OCA requests that the Honorable ALJs issue the Subpoena Order within two (2) days after the close of the response period; and TUS by and through its counsel provide the requested material to the OCA within three (3) days thereafter, pursuant to the issued Subpoena Order. 52 Pa. Code Sections 5.421(f) (providing a 10 day response period for the filing of objections to an application for a subpoena), 5.344(b) (an application for a subpoena will be granted unless objected-to within 10 days), 5.343(a)(d) (a subpoenaed witness is given 20

days' notice prior to the taking of an oral deposition and/or request for the production of documents).

IV. CONCLUSION

31. Pursuant to 52 Pa. Code Section 5.343(e), the OCA hereby names the Pennsylvania Public Utility Commission's Bureau of Technical Utility Services as the subject of the OCA's subpoena. Based upon the OCA's knowledge, information, and belief, the address of TUS is as follows:

Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room-N201
Harrisburg, PA 17120

A proposed subpoena to be delivered to TUS is attached to this Application. Upon approval of this Application, the OCA will effectuate service of the subpoena upon TUS by and through its counsel, the Commission's Law Bureau.

WHEREFORE, for the aforementioned reasons, the OCA submits that it is appropriate to issue a subpoena compelling the disclosure by TUS of the workpapers underlying its DCF and CAPM analyses pertaining to the market-based return on equity for electric distribution and water companies in the Quarterly Earnings Report for the Second Quarter of 2024, found at docket number M-2024-3051104, Attachment F and in the Quarterly Earnings Report for the Third Quarter of 2024, found at docket number M-2025-3053025, Attachment F. If such workpapers are not provided, the OCA will not be able to adequately represent the interests of ratepayers by addressing Pike County's claimed return on equity for its electric operations. As such, the OCA respectfully requests Administrative Law Judges Guhl and Arnold to issue the attached subpoena duces tecum directed to the Commission's Bureau Technical Utility Services.

Respectfully Submitted,

/s/ Jacob Guthrie

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Fax: (717) 783-7152

Dated: March 18, 2025

Exhibit A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v : Docket No. R-2024-3052359
Pike County Light & Power Company :
(Electric) :

SUBPOENA

To: Paul Diskin, Director
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services.
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Pursuant to the authority of this Commission under Sections 309, 331(d)(2), and 333(j) of the Public Utility Code:

YOU ARE ORDERED by the Commission to provide within the next three (3) calendar days to the Office of Consumer Advocate (OCA):

1. Workpapers used to develop the report titled “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024,” including the Excel files, in native format with links and formulae intact, and all linked Excel files, supporting the DCF and CAPM results which are provided in Attachment F of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024.

2. Workpapers used to develop the report titled “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024,” including the Excel files, in native format with links and formulae intact, and all linked

Excel files, supporting the DCF and CAPM results which are provided in Attachment F of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024.

This subpoena is issued subject to the provisions of 52 Pa. Code Section 5.421 (with regard to the issuance, notice, service and witness fees).

BY THE COMMISSION

Date: _____

Marta Guhl
Administrative Law Judge

Date: _____

Alphonso Arnold III
Administrative Law Judge

Appendix C

Subpoena Orders
ALJs Guhl and Arnold
3/26/25
Gas and Electric

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2024-3052357
	:	
Pike County Light & Power Company (Gas)	:	

ORDER
GRANTING APPLICATION OF THE OFFICE OF CONSUMER ADVOCATE FOR
THE ISSUANCE OF SUBPOENA

Procedural History

On December 30, 2024, Pike County Light & Power Company (“Pike”) filed Supplement No. 127 to Gas PA PUC No. 6, containing changes in gas rates, rules, and regulations with a proposed revenue increase of \$905,900 (“Supplement No. 127”). On January 23, 2025, the Pennsylvania Public Utility Commission (“Commission”) suspended Supplement No. 127 until October 15, 2025.

On March 18, 2025, the Office of Consumer Advocate (“OCA”) filed an application for a subpoena pursuant to 52 Pa. Code § 5.421, to obtain workpapers from the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Technical Utility Services (“TUS”) from its Quarterly Earnings Reports (“QERs”) (“Application”). Specifically, OCA seeks workpapers relating to the “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024” (“June 2024 QER”), available at Docket No. M-2024-3051104, and the “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024” (“Sept 2024 QER”), available at Docket No. M-2025-3053025.

The certificate of service contained in the Application indicates that the Application was served by e-mail to the parties, the undersigned Administrative Law Judges (“ALJs”), Paul Diskin, the Bureau Director of TUS, and the Commission’s Law Bureau.¹ The notice to plead contained in the Application states that a response shall be filed to the Application within 5 days.²

June 2024 QER

In its Application, OCA explains that Pike’s proposed return on equity of 10.20% was rounded up from the 10.15% return on equity authorized by the Commission in its June 2024 QER for gas distribution companies. OCA goes on to explain that Pike did not provide workpapers or other documents to support its proposed return on equity of 10.20%, other than to point to the return on equity published in the Commission’s June 2024 QER. OCA points out that Attachment G to the June 2024 QER includes a “market indicated common equity cost rate range” which “consists of data used from the barometer groups and is based on a series of calculations to average the Discount Cash Flow (“DCF”) methods.” In support of the return on equity authorized by the Commission, the June 2024 QER provides a current DCF result, a 52-week average DCF result, the average of the current and 52-week average DCF result, a market-

¹ An application for a subpoena shall be filed with the Commission and copies served by the petitioner upon:

(c) *Service.* An application for a subpoena shall be filed with the Commission and copies served by the petitioner upon:

- (1) The party, person or individual to be subpoenaed.
- (2) The presiding officer.
- (3) The parties.
- (4) The Commission's Law Bureau, if the subpoena is directed to a Commission employee.

52 Pa. Code § 5.421(c)(1)-(4).

² The written application must contain a notice that a response or objection to the application shall be filed with the Commission and presiding officer within 10 days of service of the application. 52 Pa. Code § 5.421(b)(3).

indicated range within one standard deviation of the mean of 16 DCF observations, and a Capital Asset Pricing Model (“CAPM”) check of DCF reasonableness.

In its Application, OCA claims that it needs access to the workpapers TUS used to develop its June 2024 QER to fully investigate the just and reasonableness of Pike’s proposed return on equity. Specifically, OCA is seeking the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachment G of the June 2024 QER.

Sept 2024 QER

OCA also seeks the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachment G of the Sept 2024 QER. OCA seeks this information so that it can incorporate the most up-to-date data provided in the Sept 2024 QER to provide a fully detailed analysis of Pike’s cost of equity proposal so that it may fully investigate the just and reasonableness of Pike’s proposed return on equity.

Expedited treatment of Application

OCA requests expedited treatment of its Application seeking a response to its Application within 5 days, instead of the 10 days provided by the Commission’s regulations. It also seeks an order from the undersigned ALJs 2 days after the close of the response period, instead of the 10 days provided by the Commission’s regulations. OCA states an expedited response period is necessary due to the fact that its direct testimony is due April 3, 2025, and its expert witness on rate of return and cost of capital issues cannot present a comprehensive analysis of Pike’s requested return on equity without the June 2024 QER and Sept 2024 QER workpapers.

Analysis

As an initial matter, we will treat OCA's Application in an expedited manner.³ The Application was served on the Commission's Law Bureau March 18, 2025, and the Law Bureau did not object to OCA's request to treat the Application in an expedited manner. As OCA noted, our Corrected Prehearing Order which established a litigation schedule for this case set a deadline of April 3, 2025, for the submission of direct testimony by the other parties. If the original deadlines for treatment of applications for subpoenas were to be kept, OCA may not have adequate time to serve the subpoena and address the June 2024 QER and Sept 2024 QER workpapers in its direct testimony. Thus, it is appropriate to treat the Application in an expedited manner.

Regarding the grounds for the subpoena, we find that OCA adequately specified the general relevance, materiality and scope of the documentary evidence sought, including, specifying the documents desired, and adequately listed the facts to be proved by the documents in sufficient detail to indicate the necessity of the documents.⁴ As OCA explained, the June 2024 QER and Sept 2024 QER workpapers will assist its expert witness in analyzing Pike's proposed return on equity. Further, as noted, TUS, through the Commission's Law Bureau, did not object or otherwise respond to the Application. Therefore, OCA's Application will be granted in the Ordering paragraphs below.

³ See, 52 Pa. Code § 1.2(c), which permits presiding officers to waive a requirement in the Commission's regulations when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.

⁴ 52 Pa. Code § 5.421(b)(1), (2).

THEREFORE,

IT IS ORDERED:

1. That the Application of the Office of Consumer Advocate for the Issuance of Subpoena, filed on March 18, 2025, in the above captioned matter, is granted.

Date: March 26, 2025

Marta Guhl
Administrative Law Judge

Alphonso Arnold III
Administrative Law Judge

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2024-3052357
	:	
Pike County Light & Power Company (Gas)	:	

SUBPOENA

To: Paul Diskin, Director
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services.
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Pursuant to the authority of this Commission under Sections 309, 331(d)(2), and 333(j) of the Public Utility Code:

YOU ARE ORDERED by the Commission to provide within the next three (3) calendar days to the Office of Consumer Advocate (OCA):

1. Workpapers used to develop the report titled “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024,” including the Excel files, in native format with links and formulae intact, and all linked Excel files,

supporting the DCF and CAPM results which are provided in Attachment G of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024.

2. Workpapers used to develop the report titled “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024,” including the Excel files, in native format with links and formulae intact, and all linked Excel files, supporting the DCF and CAPM results which are provided in Attachment G of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024.

This subpoena is issued subject to the provisions of 52 Pa. Code Section 5.421 (with regard to the issuance, notice, service and witness fees).

BY THE COMMISSION

DATE: _____

_____/s/
Marta Guhl
Administrative law Judge

DATE: _____

_____/s/
Alphonso Arnold III
Administrative law Judge

R-2024-3052357, R-2024-3052359 - PENNSYLVANIA PUBLIC UTILITY COMMISSION v. PIKE COUNTY LIGHT & POWER COMPANY – (GAS & ELECTRIC)

Revised: March 14, 2025

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#C-2025-3053776

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2024-3052359
	:	
Pike County Light & Power Company (Electric)	:	

ORDER
GRANTING APPLICATION OF THE OFFICE OF CONSUMER ADVOCATE FOR
THE ISSUANCE OF SUBPOENA

Procedural History

On January 14, 2025, Pike County Light & Power Company (“Pike”) filed Supplement No. 105 to Electric PA PUC No. 8, containing changes in electric rates, rules, and regulations with a proposed revenue increase of \$1,874,600 per year above existing rates (“Supplement No. 105”). On February 6, 2025, the Pennsylvania Public Utility Commission (“Commission”) suspended Supplement No. 105 until October 15, 2025.

On March 18, 2025, the Office of Consumer Advocate (“OCA”) filed an application for a subpoena pursuant to 52 Pa. Code § 5.421, to obtain workpapers from the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Technical Utility Services (“TUS”) from its Quarterly Earnings Reports (“QERs”) (“Application”). Specifically, OCA seeks workpapers relating to the “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024” (“June 2024 QER”), available at Docket No. M-2024-3051104, and the “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024” (“Sept 2024 QER”), available at Docket No. M-2025-3053025.

The certificate of service contained in the Application indicates that the Application was served by e-mail to the parties, the undersigned Administrative Law Judges (“ALJs”), Paul Diskin, the Bureau Director of TUS, and the Commission’s Law Bureau.¹ The notice to plead contained in the Application states that a response shall be filed to the Application within 5 days.²

June 2024 QER

In its Application, OCA explains that Pike’s proposed return on equity of 9.75% was rounded from the 9.90% return on equity authorized by the Commission in its June 2024 QER for electric distribution companies. OCA goes on to explain that Pike did not provide workpapers or other documents to support its proposed return on equity of 9.75%, other than to point to the return on equity published in the Commission’s June 2024 QER. OCA points out that Attachment F to the June 2024 QER includes a “market indicated common equity cost rate range” which “consists of data used from the barometer groups and is based on a series of calculations to average the Discount Cash Flow (“DCF”) methods.” In support of the return on equity authorized by the Commission, the June 2024 QER provides a current DCF result, a 52-week average DCF result, the average of the current and 52-week average DCF result, a market-indicated range within one standard deviation of the mean of 16 DCF observations, and a Capital Asset Pricing Model (“CAPM”) check of DCF reasonableness.

¹ An application for a subpoena shall be filed with the Commission and copies served by the petitioner upon:

(c) *Service.* An application for a subpoena shall be filed with the Commission and copies served by the petitioner upon:

- (1) The party, person or individual to be subpoenaed.
- (2) The presiding officer.
- (3) The parties.
- (4) The Commission's Law Bureau, if the subpoena is directed to a Commission employee.

52 Pa. Code § 5.421(c)(1)-(4).

² The written application must contain a notice that a response or objection to the application shall be filed with the Commission and presiding officer within 10 days of service of the application. 52 Pa. Code § 5.421(b)(3).

In its Application, OCA claims that it needs access to the workpapers TUS used to develop its June 2024 QER to fully investigate the just and reasonableness of Pike's proposed return on equity. Specifically, OCA is seeking the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachment F of the June 2024 QER.

Sept 2024 QER

OCA also seeks the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachment F of the Sept 2024 QER. OCA seeks this information so that it can incorporate the most up-to-date data provided in the Sept 2024 QER to provide a fully detailed analysis of Pike's cost of equity proposal so that it may fully investigate the just and reasonableness of Pike's proposed return on equity.

Expedited treatment of Application

OCA requests expedited treatment of its Application seeking a response to its Application within 5 days, instead of the 10 days provided by the Commission's regulations. It also seeks an order from the undersigned ALJs 2 days after the close of the response period, instead of the 10 days provided by the Commission's regulations. OCA states an expedited response period is necessary due to the fact that its direct testimony is due April 3, 2025, and its expert witness on rate of return and cost of capital issues cannot present a comprehensive analysis of Pike's requested return on equity without the June 2024 QER and Sept 2024 QER workpapers.

Analysis

As an initial matter, we will treat OCA's Application in an expedited manner.³ The Application was served on the Commission's Law Bureau March 18, 2025, and the Law Bureau did not object to OCA's request to treat the Application in an expedited manner. As OCA noted, our Corrected Prehearing Order which established a litigation schedule for this case set a deadline of April 3, 2025, for the submission of direct testimony by the other parties. If the original deadlines for treatment of applications for subpoenas were to be kept, OCA may not have adequate time to serve the subpoena and address the June 2024 QER and Sept 2024 QER workpapers in its direct testimony. Thus, it is appropriate to treat the Application in an expedited manner.

Regarding the grounds for the subpoena, we find that OCA adequately specified the general relevance, materiality and scope of the documentary evidence sought, including, specifying the documents desired, and adequately listed the facts to be proved by the documents in sufficient detail to indicate the necessity of the documents.⁴ As OCA explained, the June 2024 QER and Sept 2024 QER workpapers will assist its expert witness in analyzing Pike's proposed return on equity. Further, as noted, TUS, through the Commission's Law Bureau, did not object or otherwise respond to the Application. Therefore, OCA's Application will be granted in the Ordering paragraphs below.

³ See, 52 Pa. Code § 1.2(c), which permits presiding officers to waive a requirement in the Commission's regulations when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.

⁴ 52 Pa. Code § 5.421(b)(1), (2).

THEREFORE,

IT IS ORDERED:

1. That the Application of the Office of Consumer Advocate for the Issuance of Subpoena, filed on March 18, 2025, in the above captioned matter, is granted.

Date: March 26, 2025

Marta Guhl
Administrative Law Judge

Alphonso Arnold III
Administrative Law Judge

supporting the DCF and CAPM results which are provided in Attachment F of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024.

2. Workpapers used to develop the report titled “Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024,” including the Excel files, in native format with links and formulae intact, and all linked Excel files, supporting the DCF and CAPM results which are provided in Attachment F of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024.

This subpoena is issued subject to the provisions of 52 Pa. Code Section 5.421 (with regard to the issuance, notice, service and witness fees).

BY THE COMMISSION

DATE: _____

_____/s/_____
Marta Guhl
Administrative law Judge

DATE: _____

_____/s/_____
Alphonso Arnold III
Administrative law Judge

R-2024-3052357, R-2024-3052359 - PENNSYLVANIA PUBLIC UTILITY COMMISSION v. PIKE COUNTY LIGHT & POWER COMPANY – (GAS & ELECTRIC)

Revised: March 14, 2025

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#C-2025-3053776

Appendix D

TUS Objections to OCA Subpoena Applications
3/28/25

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

FILED ELECTRONICALLY VIA E-FILE

Pennsylvania Public Utility	:	
Commission, et al.	:	
Complainants	:	
	:	Docket Nos. R-2024-3052357
v.	:	R-2024-3052359
	:	
Pike County Light & Power Company,	:	
Respondent	:	

**OBJECTION OF THE BUREAU OF TECHNICAL UTILITY SERVICES
TO THE APPLICATIONS OF THE OFFICE OF CONSUMER ADVOCATE FOR
ISSUANCE OF SUBPOENA**

Pursuant to Section 5.421(f) of the Commission’s regulations, 52 Pa. Code § 5.421(f), the Bureau of Technical Utility Services (TUS) of the Pennsylvania Public Utility Commission (Commission) hereby objects to the matching Applications for Issuance of Subpoena (Applications) filed in the above-captioned cases on March 18, 2025 by complainant Office of Consumer Advocate (OCA).¹ The Applications ask the presiding Administrative Law Judges to issue a subpoena requiring TUS, through its Director, Paul Diskin, to provide OCA with “workpapers used to develop” the Reports on the Quarterly Earnings of Jurisdictional Utilities (QERs) for the years ended June 30, 2024 and September 30, 2024. OCA also requests expedited treatment of the Applications, including requiring TUS to file its response within five (5) days. For the reasons described below, TUS respectfully requests that Your Honors strike the

¹ The Applications differ slightly in that one addresses Pike’s proposed electric tariff while the other addresses Pike’s gas tariff. However, they are identical in their reasoning relative to OCA’s request for TUS’ QER workpapers, and in this filing, TUS shall refer to the Applications interchangeably.

Applications based on technical deficiency, or, in the alternative, deny the Applications on the basis of scope, relevance and privilege. TUS further requests that Your Honors deny OCA's request for expedited treatment and rescind the Orders issued yesterday, which were issued without the benefit of TUS' position, in violation of the Commission's regulations and due process.

I. BACKGROUND

On December 30, 2024, Pike County Light & Power Company (Pike) filed Supplement No. 127 to Tariff Gas – Pa. P.U.C. No. 6, with the Pennsylvania Public Utility Commission, to become effective on February 28, 2025. With this filing, Pike proposed to increase rates to produce additional annual operating revenues of \$905,900 per year or an overall increase of 35.8% in total gas revenues, based on a proposed return on equity of 10.20% for an overall rate of return of 8.59% on its requested rate base balance. Pike supported its proposed return on equity (ROE) of 10.20 % by rounding up the Distribution System Improvement Charge (DSIC) Return from Attachment G, Line (7) of the QER for year ended June 30, 2024 (June 2024 QER), which is 10.15 %. Pike posits that, in lieu of presenting expert testimony proposing an ROE, it is willing to accept the generic DSIC ROE return set forth in the June 2024 QER.

On January 8, 2025, the OCA filed a Formal Complaint and Public Statement to protect the interests of consumers in the Company's service territory and to ensure that the Company is permitted to implement only a level of rates that is just and reasonable and in accordance with sound ratemaking principles. On January 17, 2025, Pike filed

Supplement No. 128 to Tariff Gas – Pa. P.U.C. No. 6 with the Commission to voluntarily postpone the effective date of the tariff filing to March 15, 2025. Pike filed the suspension postponement so the gas tariff case can run concurrently with a request for increase in rates from the Company’s gas customers.

On February 6, 2025, the Commission issued an Order that initiated an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase and the Company’s existing rates, rules, and regulations, assigned this matter to the OALJ for further proceedings as appropriate, and suspended the effective date of the tariff until October 15, 2025. The matter was assigned to presiding ALJs Marta Guhl and Alphonso Arnold III.

Pursuant to the Commission’s regulations at 52 Pa. Code §§ 5.321, 5.331 and 5.341, OCA propounded discovery on Pike, asking for the utility to provide a more detailed rationale for its proposed ROE, but Pike simply pointed to the analysis performed by TUS in the June 2024 QER as support for its recommendation without providing the documents utilized in TUS’s analysis. OCA claims that it must obtain TUS’ workpapers underlying the June 2024 QER (and the QER for year ended September 30, 2024) to ascertain how Pike’s proposed ROE was calculated and thereby assess its reasonableness. Specifically, OCA notes that “Attachment G, p. 23 of the *June 2024 QER* includes information which indicates that 16 DCF observations, and at least one CAPM observation, are made in support of the DSIC Return of 10.15%” but “there is no indication in the *June 2024 QER* how the value of 10.15% was selected from the “Market Indicated Common Equity Cost Rate Range.” Application, ¶ 20. Therefore,

OCA seeks production of TUS’ “workpapers” including “the Excel files, in native format with links and formulae intact, supporting the DCF and CAPM results which are provided in Attachment G of the *June 2024 QER*.”

For the reasons stated below, TUS respectfully requests the presiding ALJs to deny the Applications and rescind the March 27, 2025 Orders that were issued in the above-captioned proceedings, which prematurely granted the Applications.

II. OBJECTIONS

A. THE APPLICATIONS SHOULD BE STRICKEN BECAUSE THEY ARE PROCEDURALLY DEFICIENT

Section 5.421(b)(3) of the Commission’s regulations required OCA’s Applications to “contain a notice that a response or objection to the application shall be filed with the Commission and presiding officer *within 10 days* of service of the application.” 52 Pa. Code § 5.421(b)(3) (emphasis added). Based on this regulation, which was never waived, **TUS’ objections are due today, March 28, 2025.**² OCA’s Applications did include a Notice to Plead, however that notice incorrectly—and intentionally—advises that TUS was required “to file a written response or objection within 5 days” to the Applications. This misstatement of the law and reduction in the applicable standard response timeframe for applications for the issuance of a subpoena was clearly intentional as it matches OCA’s request that TUS be required to respond to the Applications within

² OCA’s Applications were served on TUS by email on March 18, 2025.

five (5) days. Accordingly, TUS respectfully requests that Your Honors strike the Applications because OCA's Notice to Plead intentionally misstates the time to respond.

B. THE APPLICATIONS SHOULD BE DENIED BECAUSE PIKE'S RELIANCE ON THE COMMISSION'S QER DOES NOT MAKE THE CALCULATION OF THE DSIC ROE RELEVANT OR MATERIAL IN THIS RATE CASE PROCEEDING

Under the law, the utility is entitled to recovery of its reasonably incurred expenses and a fair return on its investment. The Commission evaluates each utility's request for a rate increase based on those criteria. During a base rate case investigation, the burden of proof is always on the public utility which means that it is incumbent that it present evidence in support of the rate increase. Other parties, like the OCA, have the ability to contest the utility's requested rate increase and are afforded the opportunity to review the company's records and the evidence supporting their proposed rate request and present their views on whether the increase is in the public interest. Consequently, OCA stated that in its Prehearing Memorandum, it provided notice to parties that it intended to submit expert testimony on issues pertaining to rate of return. OCA Prehearing Memorandum at 8.

Thereafter, OCA propounded discovery requests on Pike —specifically, its Fifth Set of Interrogatories— requesting Pike to provide workpapers or other documents supporting its proposed ROE of 10.20%. Since Pike supposedly did not provide any relevant or pertinent workpapers or other documents to support its proposed ROE of 10.20%, OCA asserts that it is unable to perform a fully detailed analysis of Pike's cost of equity proposal and determine whether Pike's overall requested rate of return is appropriate and reasonable for use in establishing Pike's revenue requirement and resultant rates. Applications at 5.

OCA asserts that since Pike seems to rely on the DSIC ROE set forth in the Commission’s June and September 2024 QERs, it is necessary for TUS to provide its workpapers used to develop the DSIC ROE set forth in the June and September 2024 QER. OCA further asserts that in a proceeding wherein a utility supports its ROE request through the use of a cost of capital witness, it routinely requests the workpapers of that witness in order to understand the basis for the witness’s recommendation. *See* 52 Pa. Code Section 5.321. Accordingly, OCA seeks to subpoena TUS’s workpapers because they supposedly relate to the claim of Pike that it is entitled to an ROE of 10.20%.

Under Section 5.321(c) of the Commission’s regulations, 52 Pa. Code § 5.321(c) (relating to scope of discovery), “a party may obtain discovery regarding any matter... which is relevant to the subject matter involved in the pending action[.]” In this instant matter, which is an investigation into Pike’s proposed rates, it needed to supply supporting data with the proposed tariff(s). However, the particular QER information that OCA seeks from TUS is irrelevant to the instant rate case.

After reviewing the financial data filed by jurisdictional utilities pursuant to 52 Pa. Code, Chapter 71 (Financial Report), §§ 71.1 – 71.9 and other publicly-available data, TUS prepares a draft QER for consideration at a Commission public meeting. The publicly released QER clearly states that the Commission determines the ROE is for DSIC purposes and not to substantiate a utility’s request to increase its rates in a requested rate base filing. As such, the QER is published to fulfill the Commission’s broad regulatory oversight responsibilities, and to set forth the Commission allowed ROE for DSIC purposes, not to establish the ROE of any specific utility in a rate case.

In this proceeding, the OCA asserts that it seeks to understand the basis for TUS's selection of 10.15% as the Commission approved DSIC ROE and, therefore, must request TUS's workpapers. However, the fact that Pike has chosen to adopt the unorthodox position of relying on the DSIC ROE published in the Commission's QERs in lieu of presenting its own independent expert witness testimony that sets forth a ROE that substantiates the proposed new rates and proves that the requested rate increase is needed does not draft the Commission or its advisory Staff, here TUS, into supporting its rate case. OCA is free to challenge Pike's reliance on the QER; and indeed, OCA avers that it has sought discovery and exposed Pike's position as having no foundation. Yet, OCA should not be allowed to use Commission advisory staff to bolster its challenge to Pike's proposed rate increase.

In the case of general rate cases, TUS serves as the advisory bureau to the Commission as it performs the initial analysis of the rate filing and makes a recommendation as to whether to suspend, approve, or issue an option order. This should be TUS' only involvement in a contested base rate case. For that matter, the Commission (of which TUS is a constituent bureau) is not a party to these dockets and takes no position with respect to Pike's proposed ROE. Indeed, the Commission is charged with adjudicating utility rate case filings and ultimately setting a ROE which may differ from the ROE proposed by the utility in its base rate case filing. Thus, neither the Commission nor its advisory Staff should take any action that seemingly endorses the position of any

party.³ Compelling TUS to provide its workpapers to an interested party, for that party to exploit in litigation and support its position, conflicts with the Commission's need to maintain objectivity in the dockets.

C. THE APPLICATIONS SHOULD BE DENIED BECAUSE THEY SEEK DISCLOSURE OF PRIVILEGED MATERIALS

Almost all the data contained in TUS' spreadsheets is published verbatim in the QERs and already available to OCA.⁴ As such, OCA has the option to submit the Commission's QER reports under 52 Pa. Code § 5.406. However, OCA is not seeking purely factual information in its subpoena. Rather, in seeking TUS' "worksheets" (a term which OCA leaves undefined), OCA seeks to examine the inner workings through which the Commission, with TUS and the Law Bureau's advice, derives the DSIC ROEs that appear in the QERs. This inquiry broaches into the deliberative process of the Commission and should be firmly resisted at the outset:

The deliberative process privilege permits the government to withhold documents containing confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice. The deliberative process privilege benefits the public and not the officials who assert the privilege. The privilege recognizes that if governmental agencies were forced to operate in a fishbowl, the frank exchange of ideas and opinions would cease and the quality of administrative decisions would consequently suffer. For the deliberative process privilege to apply, certain requirements must be met.

³ It is for this reason that Section 5.321(d) of the Commission's regulations, 52 Pa. Code § 5.321(d), excepts "discovery sought of Commissioners or Commission staff serving in an advisory or adjudicatory capacity" from the scope of permitted discovery.

⁴ Pursuant to 52 Pa. Code 71.7, a public utility is required to serve a copy of its filed financial report with the Office of Special Assistants, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate and the Small Business Advocate. The other data used that by TUS to calculate the range of the DSIC ROE is from public and subscription sources that are available to the OCA.

First, the communication must have been made before the deliberative process was completed. Secondly, the communication must be deliberative in character. It must be a direct part of the deliberative process in that it makes recommendations or expresses opinions on legal or policy matters. Information that is purely factual, even if decision-makers used it in their deliberations is usually not protected.

Joe v. Prison Health Servs., Inc., 782 A.2d 24, 33 (Pa. Cmwlth. 2001).

As stated above, when preparing a draft QER for official action by the Commission at a public meeting, TUS prepares a spreadsheet which captures the financial data provided by the utilities as well as data gathered by TUS from public and subscription sources. The spreadsheets also contain mathematical functions that TUS uses to analyze this data and calculate, among other things, the CAPM and DCF results. Upon official action taken by the Commission on the draft QER at the public meeting, the QER is released at public meeting. Thus, in compiling QERs for Commission review and approval, TUS acts in an advisory capacity, as contemplated by the Public Utility Code. See, 66 Pa.C.S. § 308.2(a)(3) (authorizing the Commission to establish a bureau to “[c]onduct financial reviews, earnings analyses and other financial studies.”). Thus, TUS’ spreadsheets are part and parcel of the Commission’s deliberative process and therefore privileged.

D. THE ALJS’ ORDERS GRANTING THE APPLICATIONS SHOULD BE RESCINDED IMMEDIATELY

On March 26, 2025, the presiding ALJs issued twin orders granting the Applications (Subpoena Orders) in these dockets.⁵ The Subpoena Orders reason that OCA had stated an adequate case for issuance of subpoenas and for expedited treatment and averred that TUS did not object to either. The Subpoena Orders were issued prematurely, without due process and should be rescinded immediately.

The Subpoena Orders note that Section 5.421(b)(3) of the Commission's regulations, 52 Pa. Code § 5.421(b)(3), provides that OCA's Applications "must contain a notice that a response or objection to the application shall be filed with the Commission and presiding officer within 10 days of service of the application." Subpoena Orders at 2, n.2; 52 Pa. Code § 5.421(b)(3). Thus, the Subpoena Orders recognize that ten (10) days' notice was required but, inexplicably, retroactively adopt OCA's request that TUS' time to object be shortened to five (5) days. Thus, the Subpoena Orders deprive TUS of due process and flagrantly disregard the Commission's procedural rules.⁶

Finally, OCA could have, and should have, initiated third-party discovery as soon as it learned that Pike intended to rely on the QERs as the basis for its proposed ROE, which was March 3. Applications, ¶¶ 11-15. Pursuant to Section 5.331(b), 52 Pa. Code § 5.331(b), "[a] party shall initiate discovery as early in the proceedings as reasonably

⁵ TUS is not included in the service list appended to the Subpoena Orders, and only received copies of the Subpoena Orders when they were emailed to counsel by OCA the morning of March 27, 2025.

⁶ See, *Gary Eckenrode*, No. C-2012-2337839, 2013 WL 4414583, at *4 (Aug. 1, 2013) ("Under Section 5.421 of the regulations, subpoenas must be in written form with enough specificity to determine relevance, materiality and scope of the testimony or documents sought. 52 Pa. Code § 5.421(b)(1). The opposing party has 10 days within the service of the subpoena to file objections to the request. 52 Pa. Code § 4.421(f).")

possible.” Instead, OCA waited until March 10 to confer with counsel about procedure and until March 18 to file its Applications. The OCA, in an attempt to add credence to its defective Applications, represents that counsel for the Commission collaborated on the “best approach” for gaining access to the information. Application ¶ 29. The OCA’s representation is disingenuous at best and should be ignored. A single telephone conversation with counsel about a procedural question in a case in which TUS is not even a party in no way constitutes “notice” that would excuse OCA from providing the required ten (10) day interval to respond, or justify expedited treatment of its Applications. The OCA could also have requested an extension of the discovery period. In short, OCA’s current predicament is one of its own making. Also, a presiding officer should only waive a requirement within the regulations if the waiver does not adversely affect a substantive right of a party. Per the Commission’s regulations regarding subpoenas, TUS had a minimum of ten days to respond. The OCA is well aware of the litigation schedule established by the ALJs in this proceeding. The OCA’s delay in determining its litigation position cannot be used as the basis to justify an emergency or exigent circumstance resulting in the modification of the substantive right of TUS to respond to the Applications within the appropriate ten day timeframe.

WHEREFORE, for all the foregoing reasons, the Bureau of Technical Utility Services of the Pennsylvania Public Utility Commission respectfully requests that Your Honors issue an order striking OCA's Applications because they are procedurally improper. Alternatively, the Applications should be denied as they seek records that are outside the scope of discovery, irrelevant and privileged. Finally, OCA's request for expedited treatment should be denied and the Subpoena Orders should be rescinded.

Respectfully submitted,

Chris Van de Verg

Christopher F. Van de Verg
Deputy Chief Counsel
Law Bureau
PA Attorney ID No. 330088

Pennsylvania Public Utility Commission
400 North St.
Harrisburg, PA 17120
(717) 783-3459
cvandeverg@pa.gov

Date: March 28, 2025

VERIFICATION

I, Paul Diskin, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in cursive script that reads "Paul Diskin". The signature is written in black ink and is positioned above a horizontal line.

Paul Diskin
Director, Bureau of Technical Utility Service
Pennsylvania Public Utility Commission

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/s/ Christopher F. Van de Verg
Christopher F. Van de Verg

Dated: March 28, 2025

Appendix E

TUS Petition for Interlocutory Review
3/31/25

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

FILED ELECTRONICALLY VIA E-FILE

Pennsylvania Public Utility Commission, et	:	
al.	:	
Complainants	:	
	:	Docket Nos. R-2024-3052357
v.	:	R-2024-3052359
	:	
Pike County Light & Power Company,	:	
Respondent	:	

PETITION FOR INTERLOCUTORY REVIEW OF DISCOVERY MATTERS

Pursuant to 52 Pa. Code § 5.304, the Bureau of Technical Utility Services (TUS) of the Pennsylvania Public Utility Commission (Commission), by the Law Bureau, hereby petitions the Commission for interlocutory review¹ of the presiding Administrative Law Judges’ (ALJs) March 26, 2025 Orders (Subpoena Orders)² on two similar Applications for Issuance of Subpoena (Applications), which were filed in the above-captioned cases on March 18, 2025 by complainant Office of Consumer Advocate (OCA)³. TUS seeks interlocutory review of the ALJ Orders for the following reasons:

I. The presiding ALJs improperly granted OCA’s Applications without first allowing TUS time to respond to the Applications. The ALJ Orders were issued prior to the close of the ten-day period allotted for TUS to object to the Applications, as prescribed by 52 Pa.

¹ TUS notes that, where “[i]nterlocutory review is ordered by the Commission” or “[t]he ruling has as its subject matter the deposing of a Commissioner or Commission employee”, certification by the presiding officer is not necessary. 52 Pa. Code § 5.304(a)(1) and (3).

² R-2024-3052357, *Order Granting Application of the Office of Consumer Advocate for the Issuance of Subpoena* (March 26, 2025); R-2024-3052359, *Order Granting Application of the Office of Consumer Advocate for the Issuance of Subpoena* (March 26, 2025).

³ The Applications differ slightly in that one addresses Pike’s proposed electric tariff while the other addresses Pike’s gas tariff. However, they are identical in their reasoning relative to OCA’s request for TUS’ Quarterly Earnings Reports (QERs) workpapers, and in this filing, TUS shall refer to the Applications interchangeably.

Code § 5.421(f). TUS had no notice that the presiding ALJs were adopting a truncated response period and had no effective chance to respond to the Applications.

II. The presiding ALJs incorrectly ruled that TUS should be required, by subpoena, to provide copies of internal workpapers TUS generates as part of the deliberative process through which the Commission votes on and issues Quarterly Earnings Reports (QERs) at Public Meeting.⁴

Background

1. On Tuesday, March 18, 2025, OCA filed the Applications, which asked the ALJs to issue subpoenas requiring TUS to provide its workpapers in connection with the QERs for years ending June 30, 2024 and September 30, 2024.

2. On Wednesday, March 26, 2025, the presiding ALJs issued the Subpoena Orders granting OCA's Applications. In so doing, the ALJs failed to provide TUS sufficient opportunity to file timely objections, which were not due until Friday, March 28, 2025. 52 Pa. Code § 5.421(f).

3. TUS was not served with a copy of the ALJ Subpoena Orders and did not receive them until OCA emailed them the day after they were issued.

4. On Friday, March 28, 2025, TUS timely filed objections to the Application (Objections). In its Objections, TUS argued that the Applications should be denied on the basis

⁴ After reviewing the financial data filed by jurisdictional utilities pursuant to 52 Pa. Code, Chapter 71 (Financial Report), §§ 71.1 – 71.9 and other publicly-available data, TUS prepares a draft QER for consideration at a Commission public meeting. The publicly released QER includes the Commission-determined return on equity (ROE) for Distribution System Improvement Charge (DSIC) purposes in the electric, gas and water industries. It appears that Pike County is attempting to use the DSIC ROE in lieu of presenting its own rate case, which is not consistent with the purpose of the QERs or the DSIC ROE.

of relevance, scope and because TUS' workpapers are protected by the deliberative process privilege.

5. Additionally, in its Objections, TUS requested the presiding ALJs to rescind the Subpoena Orders, since those Orders were issued prematurely, in blatant disregard of Commission regulations and TUS' right to procedural due process. Again, the ALJs failed to provide any notice to TUS that they were waiving the regulatory 10-day response period. 52 Pa. Code § 5.421(f).

6. Also on Friday, March 28, 2025, OCA served the subpoenas on TUS.

7. The subpoenas on their face require TUS to provide the workpapers to OCA by Wednesday, April 2, 2025.

8. As of the date and time of this filing, the presiding ALJs have not ruled on TUS' Objections and have not rescinded the errant Subpoena Orders.

9. If TUS is required to provide privileged workpapers to OCA, that will pave the way for OCA to seek further discovery into the derivation of the QERs, to include depositions of Commission staff.

10. Based on the exigencies and substantive implications presented by the ALJs' Subpoena Orders, as well as the ALJs' failure to address TUS's timely filed Objections, TUS respectfully requests that the Commission reverse those orders, rescind the subpoenas, and direct the presiding ALJs to issue a new ruling, after considering TUS's timely filed Objections to the OCA's Applications for Subpoenas.

11. For these reasons, TUS avers that interlocutory review will prevent substantial prejudice by preventing OCA from obtaining TUS' sensitive, privileged workpapers.

Respectfully submitted,

/s/ Christopher F. Van de Verg
Christopher F. Van de Verg
Deputy Chief Counsel
Law Bureau
PA Attorney ID No. 330088

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Date: March 31, 2025

VERIFICATION

I, Paul Diskin, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

A handwritten signature in cursive script that reads "Paul Diskin". The signature is written in black ink and is positioned above a horizontal line.

Paul Diskin
Director, Bureau of Technical Utility Service
Pennsylvania Public Utility Commission

Dated: March 31, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

	:	
	:	
Pennsylvania Public Utility Commission, et	:	
al.	:	Docket Nos. R-2024-3052357
Complainants	:	R-2024-3052359
	:	
v.	:	
	:	
Pike County Light & Power Company,	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Petition for Interlocutory Review of the Bureau of Technical Utility Services, which was filed electronically via E-File, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party), in the manner and upon the persons listed below:

SERVICE BY E-MAIL ONLY

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/s/ Christopher F. Van de Verg
Christopher F. Van de Verg

Dated: March 31, 2025

Appendix F

Order Denying TUS Petition for Interlocutory Review
ALJs Guhl and Arnold
4/2/25

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2024-3052357
:
v. :
:
Pike County Light & Power Company (Gas) :

Pennsylvania Public Utility Commission : R-2024-3052359
:
v. :
:
Pike County Light & Power Company (Electric) :

ORDER
DENYING PETITION FOR INTERLOCUTORY REVIEW

This Order denies the March 31, 2025, Petitions for Interlocutory Review filed by the Commission’s Bureau of Technical Utility Services in the above captioned proceedings.¹

Procedural History

On December 30, 2024, Pike County Light & Power Company (“Pike”) filed a tariff supplement containing changes calculated to produce additional annual revenues for gas service. On January 23, 2025, the Commission suspended Pike’s proposed tariff supplement until October 15, 2025.

¹ We note that TUS’s Petition is directed to the Commission, not the undersigned presiding officers. However, as discussed in this Order, because TUS filed its Petition under Section 5.304 of the Commission’s regulations, we find that our Order granting the Application for Subpoena that TUS challenges in its Petition is not subject to interlocutory review pursuant to Section 5.304 of the Commission’s regulations unless interlocutory review is certified by the presiding officers in this case. Therefore, we find it necessary to make a ruling on TUS’s Petition through this Order.

On January 14, 2025, Pike filed a tariff supplement containing changes calculated to produce additional annual revenues for electric service. On February 6, 2025, the Commission suspended Pike's proposed tariff supplement until October 15, 2025.

On March 18, 2025, the Office of Consumer Advocate ("OCA") filed Applications for Subpoena pursuant to 52 Pa. Code § 5.421, at both the gas and electric dockets, to obtain workpapers from the Pennsylvania Public Utility Commission's ("Commission") Bureau of Technical Utility Services ("TUS") from its Quarterly Earnings Reports ("QERs") ("Application"). Specifically, OCA seeks workpapers relating to the "Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024" ("June 2024 QER"), available at Docket No. M-2024-3051104, and the "Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024" ("Sept 2024 QER"), available at Docket No. M-2025-3053025. OCA in its Applications also requested expedited treatment of the Application, requesting that TUS respond to the Applications within 5 days instead of the 10 days pursuant to the Commission's regulations. OCA attached a Notice to Plead on the Applications which also indicated an expedited time period for response within 5 days of the Applications. OCA indicated that this expedited treatment was necessary because Non-Company direct testimony was due to be submitted by April 3, 2025, and the witnesses would need time to review the documentation to incorporate it into their testimony.

On March 26, 2025, the Commission issued the Orders of the undersigned presiding officers granting the Applications ("Orders").

On March 28, 2025, TUS, through the Commission's Law Bureau ("Law Bureau"), filed Objections to the Applications for Subpoena ("Objections").

On March 31, 2025, OCA filed Affidavits of Subpoena, indicating that it served the subpoenas on TUS on March 26, 2025.

Also on March 31, 2025, TUS, through the Law Bureau, filed Petitions for Interlocutory Review (“Petitions”).

On April 1, 2025, Status Conference Notices were issued to the parties scheduling a status conference for April 1, 2025, at 1:00 p.m. The parties were informed through email that the purpose of the status conference was to hear arguments regarding the Applications and Objections thereto.

The status conference was held as scheduled. Attorneys representing Pike, OCA, Law Bureau, and the Commission’s Bureau of Investigation and Enforcement (“I&E”) were present. Pike and I&E did not take any position on the Applications, Objections, or the Petitions.

Discussion

We find TUS’s Petitions to be procedurally deficient.

The instant Petitions were made pursuant to Section 5.304 of the Commission’s regulations, 52 Pa. Code § 5.304, which concerns interlocutory review of discovery matters. However, the Petitions are not seeking the review of a discovery matter. In its Petitions, TUS is seeking review of our Orders which granted the applications for subpoena made by OCA pursuant to Section 5.421 of the Commission’s regulations, 52 Pa. Code § 5.421, wherein OCA seeks certain documentation from TUS. As TUS is not seeking review of a discovery matter, the Petitions should have been made pursuant to Section 5.302 of the Commission’s regulations, 52 Pa. Code § 5.302.²

² Also, to this point, *see Application of First Class Transportation, Inc.*, Docket Nos. P-2015-2501758, and A-2015-2466538 (Opinion and Order entered Feb. 25, 2016) (“*Application of First Class*”). In this matter, a Protestant to the Application filed a Petition for Interlocutory Review with the Commission, pursuant to Section 5.304 of the Commission’s regulations, seeking Commission review of the presiding officer’s denial of a request for the issuance of a subpoena for the attendance of a witness at an evidentiary hearing. The Commission in addressing the petition stated that the petition did not seek review of a discovery ruling and thus the petition should have been filed under Section 5.302 of the Commission’s regulations. *Application of First Class* at 5. Similarly, as a ruling denying an application for subpoena is not a discovery matter neither is a ruling granting an application for subpoena.

Assuming *arguendo* that the Petitions seek review of a discovery matter, Section 5.304 of the Commission's regulations clearly states that rulings of presiding officers on discovery are only subject to interlocutory review if one or more conditions are met. Those conditions are the following:

- (1) Interlocutory review is ordered by the Commission.
- (2) Interlocutory review is certified by the presiding officer.
- (3) The ruling has as its subject matter the deposing of a Commissioner or Commission employee.

See 52 Pa. Code § 5.304(a).

None of the three conditions by which a party can seek interlocutory review of a discovery ruling are met in this instance. TUS claims in its Petitions that Sections 5.304(a)(1) and (a)(3) have been met in this instance, however, the Commission has not ordered interlocutory review of our Orders, nor do either of our Orders have as its subject matter the deposing of a Commissioner or Commission employee.³ With neither of those two conditions having been met, our Orders would be subject to interlocutory review only if certified by us. 52 Pa. Code § 5.304(a)(2).

Furthermore, again assuming that the Petitions seek review of a discovery matter, the Petition is also deficient because it does not request that we certify a Material Question for interlocutory review. Instead, TUS proceeds directly to the Commission to seek interlocutory review of our Orders.

TUS does not request that we certify a Material Question to the Commission for interlocutory review because it believes that certification by the undersigned presiding officers is unnecessary in this instance, stating that “where “[i]nterlocutory review is ordered by the Commission” or “[t]he ruling has as its subject matter the deposing of a Commissioner or Commission employee”, certification by the presiding officer is not necessary. 52 Pa. Code

³ Based on its Petition, and argument at the status conference, TUS is under the belief that providing the subpoenaed workpapers to OCA would pave the way for OCA to depose Commission staff. Petition ¶ 9. Our Order did not order the deposition of any Commission staff. Further, OCA at the status conference indicated that they were not looking to depose any Commission employee.

§ 5.304(a)(1) and (3).” *See* Petition, fn. 1. As we discussed above, we do not find that the conditions detailed in 52 Pa. Code § 5.304(a)(1) or (3) have been met here. As neither of those two conditions have been met, TUS must have requested certification of a Material Question for interlocutory review by the undersigned presiding officers, 52 Pa. Code § 5.304(a)(2). The Petitions contain neither a Material Question nor a request for certification of a Material Question for interlocutory review by the undersigned presiding officers. There is nothing in Section 5.304 of the Commission’s regulations that allows a party to bypass the certification of a Material Question by the presiding officers.⁴

For the above reasons, the Petitions will be denied in the Ordering paragraphs below.

THEREFORE,

IT IS ORDERED:

1. That the Petition for Interlocutory Review filed on March 31, 2025, at Docket No. R-2024-3052357, is denied.

⁴ Furthermore, the Commission’s regulations require that a petition for interlocutory review of a presiding officer's ruling on discovery must state the question to be certified. 52 Pa. Code § 5.304(c)(3). The Petition was made in compliance with the other requirements of 52 Pa. Code § 5.304(c) concerning the content of a Petition except for this requirement.

2. That the Petition for Interlocutory Review filed on March 31, 2025, at Docket No. R-2024-3052359, is denied.

Date: April 2, 2025

_____/s/
Marta Guhl
Administrative Law Judge

Alphonso Arnold III
Administrative Law Judge

**R-2024-3052357, R-2024-3052359 - PENNSYLVANIA PUBLIC UTILITY COMMISSION
v. PIKE COUNTY LIGHT & POWER COMPANY – (GAS & ELECTRIC)**

Revised: March 14, 2025

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Appendix G

OCA Brief in Opposition to Certification for Interlocutory Review
4/7/25

COMMONWEALTH OF PENNSYLVANIA



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April 7, 2025

Via Electronic Mail

Administrative Law Judge Marta Guhl (mguhl@pa.gov)
Administrative Law Judge Alphonso Arnold III (alphonarno@pa.gov)
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
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Re: Pennsylvania Public Utility Commission
v.
Pike County Light & Power Company
Docket Nos. R-2024-3052357
R-2024-3052359

Dear Honorable Judges Guhl and Arnold:

Please find enclosed a copy of the OCA Brief in Opposition to Certification of Interlocutory Review being submitted on behalf of the Office of Consumer Advocate in this proceeding.

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

Respectfully submitted,

/s/ Jacob D. Guthrie
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Enclosures

cc: Secretary Rosemary Chiavetta (Cover Letter and Certificate of Service Only)
Office of Special Assistants (email only: ra-osa@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v. : Docket No. R-2024-3052357
Pike County Light & Power Company :
Gas :

Pennsylvania Public Utility Commission :
v. : Docket No. R-2024-3052359
Pike County Light & Power Company :
Electric :

I hereby certify that I have this day served a true copy of the following document, OCA Brief in Opposition to Certification of Interlocutory Review, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7th day of April, 2025.

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Pursuant to 52 Pa. Code Section 5.304(d), the Office of Consumer Advocate (OCA) submits the following Brief in opposition to certification of the Petition for Interlocutory Review of Discovery Matters (Petition)¹ submitted by the Pennsylvania Public Utility Commission's (Commission's) Bureau of Technical Utility Services (TUS) on March 31, 2025.

I. BACKGROUND

On March 18, 2025, the OCA filed Applications for Issuance of Subpoena (Applications) in the gas and electric rate increase requests of Pike County Light & Power Company (Pike or Company) at the above-listed dockets, pursuant to 52 Pa. Code Section 5.421. In the Applications, the OCA requested that Administrative Law Judges (ALJs) Marta Guhl and Alphonso Arnold III order the issuance of a subpoena for TUS to produce the workpapers² which support Attachments F and G of the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024 (June 2024 QER) and the Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended September 30, 2024 (Sept. 2024 QER)³. The OCA further requested that the Applications receive expedited treatment, with the period for objections being shortened from 10 to five days and, therefore, the OCA included in its Notice to Plead a notice that responsive objections should be filed and served within five days of the filing date of the Applications. Applications at ¶¶ 27-31. In the Applications, the OCA stated that the procedural schedule established in these dockets required the OCA to submit its Direct Testimony on April 3, 2025, which required a timely response from TUS in order to include the subpoenaed documents in its

¹ In the Petition, TUS treats the OCA's Applications as identical. Petition at n. 3. The OCA, therefore, submits the instant Brief as a consolidated responsive filing to the Petition.

² In TUS's Objections to the OCA's Applications (Objections), TUS states that the terms used by the OCA in its Applications regarding "worksheets" is left undefined. Objections at 8. In the Application, the OCA defined "workpapers" as "including the Excel files, in native format with links and formulae intact, and all linked Excel files, supporting the DCF and CAPM results which are provided in" Attachments F and G of the Reports on the Quarterly Earnings of Jurisdictional Utilities for the years ending June and September 2024 and did not use the term "worksheets." Applications at 7, 11-12.

³ Such reports are frequently referred to as the "Quarterly Earnings Reports" or "QERs."

case-in-chief. No objections or responses were filed with the Commission in response to the OCA's Applications by March 23, 2025, or the close of the noticed five-day pleading period.

On March 26, 2025, the ALJs issued Orders granting the OCA's Applications (*March 26 Orders*), including granting the OCA's request for expedited treatment as well as the OCA's request for issuance of subpoenas. On March 27, 2025, the OCA provided TUS with the *March 26 Orders* and issued subpoenas via electronic mail and perfected service of the subpoenas on March 28, 2025, with in-person delivery. Also on March 28, 2025, TUS filed its belated Objections, objecting to both the *March 26 Orders* granting the OCA's request for expedited treatment as well as the issuance of subpoenas. On March 31, 2025, the OCA filed an Affidavit of Service, indicating that it served the subpoenas on TUS on March 28, 2025.

Also on March 31, 2025, TUS filed the instant Petition, seeking interlocutory review of the *March 26 Orders* pursuant to 52 Pa. Code Section 5.304, pertaining to interlocutory review of discovery matters, which identified reasons for interlocutory review.⁴ Petition at 1-2. On April 1, 2025, ALJs Guhl and Arnold convened a status conference to hear oral argument on the Applications, Objections, and Petition. Counsel for the OCA and TUS participated in the argument.

On April 2, 2025, ALJs Guhl and Arnold issued Orders which denied certification of TUS's Petition (*April 2 Orders*). ALJs Guhl and Arnold ruled that the Petition was procedurally deficient because (1) it sought interlocutory review of an order granting an application for issuance of a subpoena, which is not itself a discovery ruling and should be brought under 52 Pa. Code Section 5.302 instead of under Section 5.304; and (2) if, assuming *arguendo* that the *March 26 Orders* had

⁴ "A petition for interlocutory review of a presiding officer's ruling on discovery must" "[s]tate the question to be certified." 52 Pa. Code § 5.304(c)(3). Similarly, if interlocutory relief is sought under Pa. Code Section 5.302, the "petition must...state, in not more than three pages, the question to be answered." 52 Pa. Code § 5.302(a). Because the Petition did not state a question to be answered by the Commission or to be certified by the ALJs, the Petition is deficient under the Commission's regulations.

been rulings on a discovery matter, the Petition did **not** (a) meet the condition of Section 5.304(a)(1) because the Commission did not order interlocutory review of the *March 26 Orders*; (b) meet the condition of Section 5.304(a)(2) because TUS failed to request the ALJs to certify a question to the Commission, as is required; **or** (c) meet the condition of Section 5.304(a)(3) because deposition of a Commissioner or Commission employee is **not** at issue in the OCA's Applications or *March 26 Orders*. *April 2 Orders* at 3-5 (*citing* 52 Pa. Code §§ 5.302(a), 5.304(a); *citing also Application of First Class Transportation, Inc.*, Docket Nos. P-2015-2501758 *et al* (Order entered Feb. 25, 2016)⁵ (*First Class*) at 5).

Notwithstanding the ALJs' denial of the instant Petition in the *April 2 Orders*, the OCA timely files, pursuant to 52 Pa. Code Section 5.304(d), this consolidated Brief in response to the Petition and in opposition to the Petition's request for certification of interlocutory review of discovery matters.⁶

⁵ Available at: <https://www.puc.pa.gov/pcdocs/1418244.docx>.

⁶ The OCA recognizes that despite the *April 2 Orders* the Commission could still decide to order interlocutory review of the *March 26 Orders* pursuant to Section 5.304(a)(1); therefore, the OCA files this responsive Brief to preserve its rights.

II. ARGUMENT

A. **The Commission should not *sua sponte* consider the Petition to have been filed under 52 Pa. Code Section 5.302.**

As stated in the *April 2 Orders*, a petition for interlocutory review of a presiding officer's grant of an application for issuance of a subpoena is not properly treated as a discovery matter. *April 2 Orders* at 3 (citing *First Class* at 5). Rather, the Petition should have been brought under 52 Pa. Code Section 5.302(a), which provides for petitions for interlocutory Commission review of a material question. *Id.* TUS's failure to bring its Petition under the correct section of the Commission's regulations should constitute waiver of the relief requested in the Petition. The OCA would be substantially prejudiced should the Commission determine to consider TUS's requested relief despite the fact that the Petition is procedurally deficient and was brought under the incorrect regulatory provision. Therefore, the OCA requests that the Commission permit the decisions of ALJs Guhl and Arnold to stand in both denying certification in the *April 2 Orders* and issuing the subpoenas pursuant to the *March 26 Orders*.

B. **Certification by the ALJs is required under the Commission's regulations for interlocutory review of the *March 26 Orders*.**

In the Petition, TUS correctly references 52 Pa. Code Section 5.304(a) regarding whether certification by the ALJs is required for interlocutory review to be granted. Petition at n. 1. Namely, certification by the ALJs is not required if interlocutory review of a discovery matter is ordered by the Commission or if the reviewed order pertains to the deposition of a Commissioner or Commission employee. 52 Pa. Code § 5.304(a). Otherwise, certification by the ALJs is required for a material question to be presented to the Commission for interlocutory review. *Id.*

In the Petition, TUS did not plead that either (1) the Commission had ordered interlocutory review of the *March 26 Orders*, or (2) that the *March 26 Orders* authorized the deposition of a Commissioner or Commission employee. Rather, the *March 26 Orders* granted the OCA's

Applications. *March 26 Orders* at 4. These subpoenas were for the production of documents (i.e., subpoena *duces tecum*), not to procure testimony either through oral or written examination (i.e., subpoena *ad testificandum*). TUS's fallacious argument that merely because the OCA made a targeted request for relevant documents – a request fully supported in the Applications – means that the OCA will seek further discovery on TUS or seek depositions is belied by the Applications themselves, as demonstrated at the oral argument. Indeed, at the April 1 status conference, counsel for TUS insisted that the OCA was seeking a deposition of Paul Diskin, director of TUS. Tr. 240. The OCA stated at the hearing that the OCA was not seeking a deposition of Mr. Diskin. *Id.* at 240-41. Given that the OCA has not requested a deposition of a Commissioner or Commission employee, TUS should not be requesting a ruling on an issue which is not before the Commission and the Commission should avoid issuing an advisory opinion on a phantom issue.

Therefore, the request for interlocutory order fails under 52 Pa. Code Section 5.304(a)(1) and 5.304(a)(3), because there is neither a Commission order requiring interlocutory review or a request to depose a Commissioner or Commission employee. The Petition also fails under 52 Pa. Code Section 5.304(a)(2) given that ALJs Guhl and Arnold denied certification of interlocutory review in the *April 2 Orders*. Therefore, the Petition has correctly been denied.

C. TUS's Objections to expedited treatment were not timely, and TUS was not prejudiced by the OCA's request for, or the ALJs' grant of, expedited treatment.

With the OCA's Application, the OCA included a Notice to Plead, as required by the Commission's regulations pertaining to subpoenas. 52 Pa. Code §5.421(b)(3). The Notice to Plead stated that responses should be provided to the ALJs within five days of the filing and service of the Applications, which were duly served on TUS and counsel for TUS. *March 26 Orders* at 2. TUS and counsel for TUS, therefore, had adequate notice that the ALJs may issue an order on an expedited basis, pursuant to the OCA's request for expedited treatment. TUS did not timely file its

Objections within the five-day time frame established in the Notice to Plead, nor did TUS otherwise timely indicate that it objected to the expedited treatment requested in the Applications. Had TUS provided the ALJs and parties with an email, letter, or written objections within the five-day time period objecting in some form to the request for expedited treatment, the parties and ALJs would have had adequate notice that TUS sought to object to the OCA's Applications. 52 Pa. Code § 5.421(f) (providing the subject of a subpoena *may* object but includes no *requirement* to do so). TUS failed to timely object and, thereby, failed to preserve its objections to the request for expedited treatment before the request was ruled on in the *March 26 Orders*.

Furthermore, at the April 1, 2025, status conference, TUS argued that the OCA could have filed an application for a subpoena as early as January 17, 2025. Tr. 238. TUS's argument should be rejected because the statement is unsupported by law, unsupported by fact, is ad hominem criticism that serves merely to distract, and because TUS was not prejudiced by the OCA's request for expedited treatment.

First, TUS's argument is unsupported by law. An element of an application for issuance of a subpoena requesting documents is necessity. 52 Pa. Code § 5.421(b)(2). Had the OCA not first engaged in discovery with Pike to determine whether documentary evidence supported Pike's requested return on equity, the OCA would not have been able to meet the necessity element for the issuance of a subpoena. The OCA did not have confirmation regarding the necessity of the Applications until March 3, 2025, as indicated in the Applications, when it received the indicated discovery responses from Pike. Applications at ¶¶ 12-16.

Second, TUS's assertion that the OCA knew or should have known about its need to file the Applications as early as January 17, 2025, has no basis in fact. TUS's assertion is based on Pike's responses to interrogatories served by the Bureau of Investigation and Enforcement (I&E).

Tr. 238. Preliminarily, TUS does not or should not have access to the responses provided to I&E’s interrogatories, as neither the interrogatories nor the responses were filed with the Commission, including whether the contents of such responses would require the OCA to apply for the issuance of a subpoena for the workpapers requested in the Applications. *See* 52 Pa. Code § 5.341(b) (interrogatories may not be filed with the Commission). Based on information available through the publicly available Commission docket, responses to I&E’s interrogatories were not served on the parties until January 27, 2025,^{7,8} which means these responses were not served on the OCA and other parties until January 27, 2025, and then only in the gas rate case, with parallel interrogatories and responses having been served later on February 4, 2025, in the electric rate case.

It is unclear if the OCA could have met the **necessity** requirement under Section 5.421(b)(2) based solely on the discovery requests of another party, which did not ask questions sufficient for the OCA to conclude that filing the Applications was necessary. The OCA did not have sufficient responses to conclude that filing the Applications was necessary until March 3, 2025, as stated in the Applications. Applications at ¶¶ 12-16.

If assuming *arguendo* that the OCA was not required to conduct further discovery to show necessity, considering TUS’s counsel’s statement that “we will not subject [TUS] to discovery until the Commission orders it,” it would have required *no fewer than 70 days*⁹ to receive the

⁷ *See Pa. PUC v. Pike Cty. Light & Power Co.*, Docket No. R-2024-3052357 (Cert. of Service of Pike Gas Responses to I&E Set RR Nos. 1-D to 6-D) available at: <https://www.puc.pa.gov/pcdocs/1863692.pdf>.

⁸ The only way TUS would mention the January 17, 2025, date is if it had obtained access to the responses, as the dates listed on the responses to I&E’s interrogatories were January 16-17, 2025. *Cf. Lyness v. Commonwealth*, 605 A.2d 1204, 1208 (Pa. 1992); *see also* 66 Pa. C.S. § 308.2(b) (prohibition on the commingling of Commission functions).

⁹ This calculation presumes that an earlier-filed application would have followed a similar procedural path to the instant matter. 70 days = 10 days for objections to an application for issuance of a subpoena + 10 days for ruling on such objections + 3 days for petitioning for interlocutory relief + 7 days for a responsive brief to such a request + 5 days for the ALJs’ ruling on the petition + 5 days for the ALJs to certify the question to the Commission + 30 days for a Commission decision on interlocutory relief. This time does not account for (1) additional calendar days due to

subpoenaed documents, which would have required the OCA to seek expedited treatment regardless. Tr. 240. Seventy days from January 28, 2025, is April 8, 2025, or five days **after** the OCA's direct testimony was due in these proceedings. As such, the OCA would have needed to request expedited treatment *operating on TUS's own time frame*, without consideration for the OCA's necessary due diligence preceding the filing of the Applications.

Third, TUS's baseless criticism of the OCA's attorney-client privileged decision-making processes and implications that the OCA somehow sat on its rights merely serve to distract from TUS's refusal to be heard during the requested expedited period. Stating that the OCA "knew way back in mid-January that they would need this information" is an irrelevant and incorrect comment by TUS seeking to undermine the OCA's legitimate and well-supported request for highly targeted, relevant, and material discovery. Tr. 238. TUS's counsel further made an ad hominem remark about the OCA in its Objections, stating that the OCA's representations in the Applications were "disingenuous at best." Objections at 10. All these comments are inaccurate criticism of the OCA that serve to distract from TUS's failure to timely respond to the request for expedited treatment. However, the OCA did its due diligence in this proceeding, moved forward in earnest and with full speed, and gave the required notice to TUS and its counsel. Moreover, the OCA treated TUS's counsel with respect. This included the OCA's contacting TUS's counsel by phone on March 10, 2025, to notify them of the OCA's need for the subpoenaed documents and to discuss a procedural path forward. Application at ¶ 30. Counsel for TUS orally requested that the OCA proceed to file an application for subpoena, which is exactly what the OCA subsequently did. *Id.* At the April 1, 2025, status conference, TUS's counsel stated on the record that the OCA's approach in contacting

deadlines falling on weekends or holidays or (2) for the time required of the subpoenaed party to provide the documents. 52 Pa. Code §§ 5.421(f), 5.304.

counsel was proper but nevertheless continued its criticism of the OCA for seeking expedited treatment. Tr. 247.

The OCA perfected notice of the Applications **and** its request for expedited treatment when the OCA served TUS and TUS's counsel with the Applications including a Notice to Plead which provided that a response was due in five days from the date of filing and an explicit request for expedited treatment in the Applications. TUS cannot and does not contest the fact that this notice was provided and was sufficient: TUS simply refused to be heard during the expedited response period by timely objecting to the request for expedited treatment.

Finally, and importantly, TUS was not prejudiced by the OCA's request for expedited treatment. TUS's Objections were heard by the ALJs at the status conference on April 1, 2025. TUS expeditiously and timely filed the instant Petition. TUS has not provided the subpoenaed documents even though, under the *March 26 Orders*, the workpapers should have been provided to the OCA on March 31, 2025.¹⁰ Therefore, TUS has suffered no procedural or substantive injury as a result of the grant of the OCA's request for expedited treatment.

In summary, in the *April 2 Orders*, the ALJs correctly denied certification of TUS's concerns and properly dismissed TUS's arguments on the matter.

D. The *March 26 Orders* should be upheld given that the documents required in the OCA's Applications for Subpoena are relevant and public.

1. The requested documents are relevant and material to the Pike rate cases.

As stated in the Applications, Pike did not submit an independent analysis to support its requested return on equity in its requests for rate relief. Applications at ¶¶ 7-16. Rather, Pike selected the Commission-authorized return on equity for purposes of the Distribution System

¹⁰ As noted herein, and as demonstrated in proof of service filed by the OCA on March 31, 2025, the OCA perfected in-person service on March 28, 2025. Three calendar days after such date would be March 31, 2025.

Improvement Charge (DSIC) for electric and natural gas distribution utilities and “rounded” that value to produce its recommended return on equity for ratemaking purposes. *March 26 Orders* at 2.

While, similar to TUS, the OCA can aver “that Pike County is attempting to use the DSIC ROE in lieu of presenting its own rate case, which is not consistent with the purpose of the QERs or the DSIC ROE,” such an averment does not present a quantitative basis as to why Pike’s proposals are inaccurate or improper. Petition at n. 4. Rather, such averments merely qualitatively engage with the proposed returns on equity. The OCA seeks to address Pike’s proposal as in-depth as possible.

The OCA owes an obligation to the Commission and the ALJs as a steward of the evidentiary record, which requires ensuring that sufficient evidence is presented for the Commission to reach an order based in substantial evidence. 2 Pa. C.S. § 704. A quantitative analysis regarding why the June 2024 QER presents an inadequate basis for the selection of an appropriate return on equity for Pike is material to the OCA’s case-in-chief and in satisfying its obligations to the ALJs and Commission to provide relevant, competent evidence sufficient to reach a conclusion regarding an appropriate return on equity. Absent such a basis, the OCA’s witness must support their argument without the support of a financial analysis.

The OCA seeks to ensure that its experts have access to all of the evidence required to fully support their positions so that it can satisfy its obligations to provide the Commission with a full and complete evidentiary record; the OCA’s expert on rate of return issues informed the OCA that the requested workpapers would assist her analysis and review of Pike’s as-filed position. For these reasons, the documents sought by the OCA’s Applications are relevant and material to its analysis of Pike’s requested return on equity for ratemaking purposes.

2. The requested documents are not privileged.

The OCA requested typical workpapers for rate of return analyses in its Applications, not draft reports, communications regarding such drafts, other such documents, or a deposition of a Commission employee, as TUS asserted despite the clear and narrow request provided in the Applications. Tr. 240-41, 246, 249. The exchange of workpapers supporting a position on rate of return is a typical part of practice before the Commission in litigation Section 1308(d) proceedings, including in the instant proceedings, wherein Pike requested the OCA's workpapers in the Company's Set 1 to the OCA. These spreadsheets often contain the type of data that the OCA anticipates are contained in the documents requested in the Applications, such as data regarding stock prices, dividends, growth rates, betas, 10-year Treasury bond yields, and total market return on equity that are components of the calculation of the discount cash flow (DCF) and capital asset pricing model (CAPM) return on equity analyses.¹¹ Such spreadsheets are not marked as confidential or privileged when exchanged during discovery; rather, they are provided ubiquitously upon request. Accordingly, the OCA has no basis to conclude that the requested spreadsheets would contain any material which could be considered to be a confidential expression of opinion, recommendation, or advice.

Rather, TUS pleaded that the only information contained in the QERs which is not available from publicly available sources, subscription sources, or the reports of jurisdictional utilities are the mathematical functions that underlie TUS's DCF and CAPM analyses. Objections at 9. However, some of these functions are already discernable because TUS provides its DCF and

¹¹ The OCA mentions these specific data because they are identified by TUS as the components of the DCF and CAPM analyses that underlie each QER. *See, e.g.*, Sept. 2024 QER at 16-17. Further, the Commission has published the parameters for the QER's calculations in a series of Secretarial Letters at Docket Nos. M-2012-2293611 and M-2012-2317272. *See, e.g., ROE Working Group*, Docket No. M-2012-2293611 (Sec. Letter dated April 17, 2013), available at: <https://www.puc.pa.gov/pcdocs/1225184.docx>. The publication of these criteria constitutes a waiver in whole or in part of the privilege which TUS asserts applies in this proceeding.

CAPM equations in the QERs. Additionally, where, as here, the data contained in a requested document is purely factual, even if it was relied upon in deliberations, that data does not fall within the deliberative process privilege. *McGowan v. Pa. DEP*, 103 A.3d 374, 386-87 (Pa. Cmwlth. 2014).

Furthermore, TUS has neither pleaded nor argued any basis which supports the inference that the mathematical functions somehow contain an expression of opinion, advice, or recommendation for the Commission. Objections at 8-9; Tr. 246-47. The deliberative process privilege only prevents disclosure of information which contains ““confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice,”” and the party claiming the privilege must submit evidence of specific facts demonstrating how the information relates to deliberations. *Pa. PUC v. Nase*, 302 A.3d 264, 272-73 (Pa. Cmwlth. 2023) (*quoting Smith v. Pa. DEP*, 161 A.3d 1049, 1067 (Pa. Cmwlth. 2017)). TUS has failed to demonstrate that the deliberative process privilege is applicable to the documents requested by the OCA in the Applications.

To the extent that TUS argued at the April 1, 2025, status conference that the OCA was requesting drafts of the June and Sept. 2024 QERs to examine the development of the June and Sept. 2024 QERs, that argument is belied by the contents of the OCA’s Applications and the *March 26 Orders*. *See also* Tr. 249. As stated previously, the OCA requested specific documents, none of which were identified in the Applications as drafts that would reflect the development of the figures ultimately included in the June and Sept. 2024 QERs over time. Drafts of the June and Sept. 2024 QERs would not be relevant to the instant proceeding because Pike did not request a return on equity contained in a draft of the June and Sept. 2024 QERs. Attachments F and G, pages 18, 20-23, 25-26 clearly contain printouts from Excel spreadsheets. The OCA is merely requesting access

to the spreadsheets in native format with links and formulae intact, and all linked Excel files, from which the printouts were made for the publicly available versions of the June and Sept. 2024 QERs, not prior versions of those spreadsheets or other drafts of the June and Sept. 2024 QERs. Applications at ¶¶ 18, 20-21, 24.

In sum, despite asserting the position that the deliberative process privilege protects from disclosure of the workpapers underlying the June and Sept. 2024 QERs, TUS pleaded no evidence or information sufficient to meet that burden. *Nase, supra*. Rather, TUS's arguments are merely that the requested workpapers contain mathematical formulae without indicating how or why such formulae contain confidential recommendations, advice, or opinions for use in a deliberative decision by the Commission. Objections at 8-9. Therefore, TUS's claim that the documents requested by the OCA in the Applications are immune from discovery under the deliberative process privilege is unsupported and belied by the processes resulting in the publication of QERs. Because the deliberative process privilege does not prevent disclosure of the documents requested by the OCA in its Applications and TUS did not plead that another privilege applies, ALJs Guhl and Arnold's decision in the *March 26 Orders* that the requested documents be provided to the OCA is in accordance with law and fact and should be upheld.

III. CONCLUSION

Therefore, the OCA respectfully submits that ALJs Guhl and Arnold's denial of certification of TUS's Petition for Interlocutory Review of Discovery Matters in the *April 2 Orders* was correct and respectfully requests that the decision of ALJs Arnold and Guhl in the *March 26 Orders* to require TUS to tender the requested documents to the OCA be upheld.

Respectfully submitted,

/s/Jacob Guthrie

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JGuthrie@paoca.org

Counsel for:

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Acting Consumer Advocate

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Dated: April 7, 2025

Appendix H

TUS Petition for Interlocutory Review
And Answer to Material Question
4/10/25

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et al.	:	
Complainants	:	
	:	
v.	:	Docket Nos. R-2024-3052357
	:	R-2024-3052359
Pike County Light & Power Company,	:	
Respondent	:	FILED VIA E-FILE
	:	

PETITION FOR INTERLOCUTORY REVIEW AND ANSWER TO MATERIAL QUESTIONS

Pursuant to 52 Pa. Code § 5.302, the Bureau of Technical Utility Services (TUS) of the Pennsylvania Public Utility Commission (Commission), by the Law Bureau, hereby petitions the Commission for interlocutory review of the presiding Administrative Law Judges’ (ALJs) effective denial of TUS’s Objections to the Applications of the Office of Consumer Advocate (OCA) for Issuance of a Subpoena (Applications) and avers as follows.

The material question to be answered:

Did the ALJs err in granting OCA’s request for issuance of a subpoena on TUS in order to obtain TUS’s workpapers that support the information and calculations set forth within the Commission’s published Quarterly Earnings Reports (QERs) when those workpapers are (i) not relevant to the underlying rate proceeding; (ii) protected from disclosure by the deliberative process privilege; and (iii) exempt from discovery as the product of Commission advisory staff?

1. On March 18, 2025, OCA filed its Applications, requesting that the ALJs issue subpoenas to TUS, a non-party to the rate case litigation in which OCA is involved, to provide its “workpapers used to develop the QERs for years ending June 30, 2024 and September 30, 2024.” OCA notified TUS that they had five (5) days to file a written response or objection, even though the Commission’s regulations clearly require that parties be given ten (10) days, which in the instant matter was until March 28, 2025, to file objections to OCA’s Applications. 52 Pa. Code §§ 5.421(b)(3) and (f).

2. As mentioned above, according to the applicable Commission regulation at 52 Pa. Code § 5.421(f), TUS had until March 28, 2025 to file timely objections. However, on March 26, 2025, before TUS had filed timely objections in accordance with the 10-day responsive timeframe prescribed in 52 Pa. Code § 5.421(f), the ALJs issued Orders granting OCA’s Applications (Subpoena Orders) that were never served on TUS and that issued by the ALJs absent any prior order notifying TUS that the applicable responsive 10-day timeframe was being waived. Rather than taking official action and issuing an order that modified and abbreviated the applicable 10-day responsive timeframe to an application for a subpoena and then issuing an order notifying the requisite parties of this

determination, the ALJs allowed OCA's mere request for an abbreviated response period to act as a waiver that automatically shortened the regulatorily prescribed response period. This action was simply procedurally deficient and violative of TUS's due process rights.

3. On March 28, 2025, in accordance with the 10-day response timeframe, TUS filed timely objections to the Applications (Objections), arguing that the Applications should be denied based on relevance, scope, and because TUS's workpapers are protected by the deliberative process privilege. In addition, TUS requested that the ALJs rescind the Subpoena Orders because they were issued prematurely because the ALJs failed to provide any notice to TUS that they were waiving the regulatory 10-day response period. 52 Pa. Code § 5.421(f).

4. Subsequently, on March 28, 2025, OCA served the subpoenas on TUS, requiring TUS to provide the workpapers to OCA by March 31. Given the outstanding matters, and the inability to undo the harm caused by improperly releasing the workpapers, the workpapers have not been provided to OCA.

5. Concomitantly, on March 31, 2025, TUS filed a Petition for Interlocutory Review of Discovery Matters pursuant to 52 Pa. Code § 5.304 seeking review of the ALJs' Subpoena Orders (Petition for Interlocutory Review. To be clear, TUS was NOT seeking review of a material question. Rather, TUS was seeking review of the allegedly errant Subpoena Orders, which in essence, was the means by which OCA was attempting to obtain pre-deliberative work product documents that are within the control of Commission advisory staff, i.e., TUS.

6. On April 1, 2025, the ALJs held a telephonic hearing on the Applications, Objections, and TUS's Petition for Interlocutory Review. By Order issued April 2, the ALJs denied TUS's Petition for Interlocutory Review after finding that (i) TUS should have petitioned for interlocutory review under 52 Pa. Code § 5.302 and (ii) it failed to meet the conditions for interlocutory review under Section 5.304 in any event. However, to date, the ALJs have failed to rule on TUS's Objections even though they were required to issue a ruling no later than April 7, 2025. 52 Pa. Code § 5.421(f).

Compelling Reasons for Interlocutory Review

7. First, TUS serves in an advisory role to the Commissioners in preparing the published QERs and to the OALJ in rate proceedings.

8. Second, Pike County Light & Power Company's reliance on the Commission's QERs in its requested base rate increases does not make TUS's calculation of the distribution system improvement charge (DSIC) return on equity (ROE) relevant to a base rate proceeding.

9. Third, the workpapers OCA seeks are part of the Commission's deliberative process with respect to the derivation of the DSIC ROEs that appear in the QERs and are, therefore, exempt from disclosure under the deliberative process privilege.

10. Fourth, the Subpoenas were issued not to elicit testimony at hearing, but rather to elicit the production of documents from a non-party during the discovery phase of the litigation. Parties to litigation are not permitted to obtain materials which are the product of or within the control of Commission advisory or adjudicatory staff and since TUS serves in an advisory role to the Commission in rate proceedings such as these, compelling TUS to provide its workpapers conflicts with the prohibition on using ALJ discovery against Commission advisory staff. *See* 52 Pa. Code §§ 5.321(d) and 5.349(e).

11. The presiding ALJs have failed to timely rule on the TUS objections, in violation of 52 Pa. Code § 5.421(f) and not only TUS, but the Commission itself will be harmed by the release of the sensitive and privileged material sought by OCA. This harm is not reparable through the normal procedural avenues because, once the material is disclosed, the harm cannot be undone. As such, the Commission should grant TUS its requested relief now to prevent substantial prejudice to TUS's and the Commission's interests from disclosure of the workpapers at issue.

12. For the reasons cited above, TUS avers that interlocutory review will prevent substantial prejudice by preventing OCA from obtaining TUS' sensitive and privileged workpapers and respectfully requests that the Commission reverse the ALJs' Subpoena Orders and rescind the subpoenas. Alternatively, TUS requests that the Commission issue an Order on its timely filed Objections.

Respectfully submitted,

/s/ Christopher F. Van de Verg
Christopher F. Van de Verg
Deputy Chief Counsel
Law Bureau
PA Attorney ID No. 330088

Pennsylvania Public Utility Commission
400 North St.
Harrisburg, PA 17120
(717) 783-3459
cvandeverg@pa.gov

Date: April 10, 2025

VERIFICATION

I, Paul Diskin, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).



Paul Diskin
Paul Diskin
Director, Bureau of Technical Utility Service
Pennsylvania Public Utility Commission

Dated: April 10, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et	:	
al.	:	
Complainants	:	
	:	Docket Nos. R-2024-3052357
v.	:	R-2024-3052359
	:	
Pike County Light & Power Company,	:	
Respondent	:	
	:	FILED VIA E-FILE
	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Petition for Interlocutory Review and Answer to Material Questions of the Bureau of Technical Utility Services, which was filed electronically via E-File, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party), in the manner and upon the persons listed below:

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Hon. Alphonso Arnold, ALJ
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alphonarno@pa.gov

/s/ Christopher F. Van de Verg
Christopher F. Van de Verg

Dated: April 10, 2025

Appendix I

Pike County Light & Power
Email to Counsel for TUS
3/31/25

[External] TUS Objection to Subpoena Pike Rate Case

From Whitney Snyder <wesnyder@hmslegal.com>
Date Mon 3/31/2025 5:22 PM
To Van de Verg, Christopher <cvandeverg@pa.gov>

 2 attachments (355 KB)

Pike Gas Ltr, COS serving Responses to IE-RR Nos. 1-6.pdf; Pike Electric - Ltr, COS serving Responses to I&E-RR 1-9.pdf;

ATTENTION: *This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing](#) button in Outlook.*

Dear Chris,

I represent Pike County Light & Power Company. While the Company has not taken a position on OCA's subpoena application or TUS's objection thereto, I do have concerns about any request for an extension of any testimony deadlines in this proceeding given the deadline for PUC decision. To that end, and since Law Bureau does not have access to discovery in this proceeding, I wanted to advise you that OCA knew or should have been aware that the Company was solely relying on TUS quarterly ROE determinations for its cost of equity basis in the rate case on the following dates (much sooner than March 3):

Gas proceeding: January 17, 2025, see response to I&E discovery below. All rate case discovery is served on all parties. I've attached the letter and COS for proof of date of service and fact of service on OCA.

Electric proceeding: February 3, 2025, see response to I&E discovery below. All rate case discovery is served on all parties. I've attached the letter and COS for proof of date of service and fact of service on OCA.

Pennsylvania Public Utility Commission v. Pike County Light & Power Company – Gas
Division; Docket No. R-2024-3052357

**PIKE COUNTY LIGHT & POWER COMPANY – GAS DIVISION’S
RESPONSES TO BUREAU OF INVESTIGATION & ENFORCEMENT’S DATA
REQUESTS SET RR NOS. 1-6**

I&E-RR-6-D Reference Pike Gas Statement No. 2, p. 23, lines 2-21. Please confirm whether the Company has or intends to perform any type of current market-based return on equity analysis other than relying on the Commission approved Distribution System Improvement Charge rate.

RESPONSE: The Company currently has not performed any type of market-based return on equity analysis, and has relied on the Commission approved Distribution System Improvement Charge rate. The Company has consulted with external advisers that can perform cost of equity analysis, and is prepared to submit rebuttal testimony to the extent any other party utilizes an ROE witness. The Company believes that the cost of an ROE witness is not a necessary rate case expense for an increase of the magnitude the Company is proposing and seeks to save ratepayers the cost of presenting such a witness. To the extent the Company must present such a witness due to the position of other parties, the Company will seek to recover costs of such witness as part of its rate case expense.

PROVIDED BY: Matthew Lenns, Controller, and Charles Lenns, Senior Vice President and Chief Financial Officer

DATE: January 17, 2025

Pennsylvania Public Utility Commission v. Pike County Light & Power Company-
Electric; Docket No. R-2024-3052359

**PIKE COUNTY LIGHT & POWER COMPANY- ELECTRIC'S RESPONSES TO
BUREAU OF INVESTIGATION AND ENFORCEMENT'S DATA REQUESTS,
SET RR, NOS. 1-9**

I&E-RR-8-D Reference Pike Electric Statement No. 2, pp. 20-21, lines 20 through 6 and Exhibit E-2, Schedule 3. State whether the Company has or intends to perform any type of current market-based return on equity analysis rather than relying on the Commission approved Distribution System Improvement Charge return rate, which is used in Pike Electric's ratemaking calculation for a return on common equity.

RESPONSE: The Company currently has not performed any type of market-based return on equity analysis, and has relied on the Commission approved Distribution System Improvement Charge rate. The Company has consulted with external advisers that can perform cost of equity analysis, and is prepared to submit rebuttal testimony to the extent any other party utilizes an ROE witness. The Company believes that the cost of an ROE witness is not a necessary rate case expense for an increase of the magnitude the Company is proposing and seeks to save ratepayers the cost of presenting such a witness. To the extent the Company must present such a witness due to the position of other parties, the Company will seek to recover costs of such witness as part of its rate case expense.

PROVIDED BY: Matthew Lenms, Controller, and Charles Lenms, Senior Vice President and Chief Financial Officer

DATE: February 3, 2025

Whitney E. Snyder | Partner

HMS Legal LLP

501 Corporate Circle | Harrisburg, PA 17110

Phone: 717.236.1300 | Direct: 717.703.0807 | Fax: 717.236.4841

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Regulation is a maze. We can show you the way!

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January 27, 2025

VIA EMAIL

Carrie Wright, Esquire
Michael A. Podskoch, Jr., Esquire
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Commonwealth Keystone Building
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carwright@pa.gov
mpodskoch@pa.gov

Re: Pennsylvania Public Utility Commission v. Pike County Light & Power Company;
Docket No. R-2024-3052357; **PIKE GAS RESPONSES TO I&E DATA
REQUESTS SET RR NOS. 1-D to 6-D**

Dear Counsel:

You have each been provided with a link to access Pike County Light & Power Company's responses to data requests. Responses to I&E Set RR, Nos. 1-D to 6-D have now been posted.

If you have any questions, please contact me.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder

Counsel for Pike County Light & Power Company

WES/das
Enclosures

cc: Rosemary Chiavetta, Secretary (by e-filing of letter and certificate of service)
Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA ELECTRONIC MAIL ONLY

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/s/ Whitney E. Snyder
Whitney E. Snyder

DATED: January 27, 2025



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February 3, 2025

VIA ELECTRONIC FILING

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

Re: Pike County Light & Power Company – Electric Division; Docket No. R-2024-3052359; **PCLP ELECTRIC’S RESPONSES TO I&E DATA REQUESTS SET RR NOS. 1-9**

Dear Secretary Chiavetta:

You have each been provided with a link to access Pike County Light & Power Company’s responses to data requests. Responses to I&E Data Requests, Set RR, Nos. 1-9, have now been posted.

If you have any questions, please contact me.

Very truly yours,

/s/ Whitney E. Snyder

Whitney E. Snyder
Erich W. Struble

Counsel for Pike County Light & Power Company

WES/das
Enclosures

cc: Rosemary Chiavetta (via e-filing of letter and certificate of service)
Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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/s/ Whitney E. Snyder

Whitney E. Snyder

Erich W. Struble

DATED: February 3, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et	:	
al.,	:	
Complainants	:	
	:	Docket Nos. R-2024-3052357
v.	:	R-2024-3052359
	:	
Pike County Light & Power Company,	:	
Respondent	:	
	:	FILED VIA E-FILE
	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Brief of the Bureau of Technical Utility Services in Support of Petition for Interlocutory Review and Answer to Material Question, which was filed electronically via E-File, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party), in the manner and upon the persons listed below:

SERVICE BY E-MAIL ONLY

Melanie Joy El Atieh, Esquire
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