

COMMONWEALTH OF PENNSYLVANIA



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April 22, 2025

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Application of Aqua Pennsylvania
Wastewater, Inc. pursuant to Sections 507, 508,
1102, and 1329 of the Public Utility Code for
Approval of its Acquisition of the Wastewater
System Assets of the City of Beaver Falls;
Docket No. A-2022-3033138

Dear Secretary Homsher:

Enclosed please find a copy of the Office of Consumer Advocate's Exceptions in this proceeding.

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

Respectfully submitted,

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cc: Administrative Law Judge F. Joseph Brady (Via Email: fbrady@pa.gov)
Pamela McNeal, Legal Assistant (Via Email: pmcneal@pa.gov)
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Certificate of Service

CERTIFICATE OF SERVICE

Application of Aqua Pennsylvania :
Wastewater, Inc. Pursuant to Sections 1102, :
1329 and 507 of the Public Utility Code for : Docket No. A-2022-3033138
Approval of its Acquisition of the Wastewater :
System Assets of the City of Beaver Falls :

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

Dated this 22nd day of April 2025.

SERVICE BY E-MAIL ONLY

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**BEFORE
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Aqua Pennsylvania :
Wastewater, Inc. Pursuant to Sections 1102, :
1329 and 507 of the Public Utility Code for : Docket No. A-2022-3033138
Approval of its Acquisition of the Wastewater :
System Assets of the City of Beaver Falls :

EXCEPTIONS
OF THE
OFFICE OF CONSUMER ADVOCATE

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I. INTRODUCTION

The Office of Consumer Advocate (OCA) submits these Exceptions to the Recommended Decision (Recommended Decision or RD) of Administrative Law Judge (ALJ) F. Joseph Brady issued on April 10, 2025. In these Exceptions, the OCA requests that the Commission not adopt the ALJ's RD because it is inconsistent with applicable law. The OCA requests that the Commission approve the Joint Petition for Non-Unanimous Settlement of All Issues (Joint Petition for Settlement) filed on March 25, 2025, on behalf of Aqua Pennsylvania Wastewater, Inc. (Aqua or Applicant), the City of Beaver Falls (the City or Beaver Falls), the OCA, and the Commission's Bureau of Investigation and Enforcement (I&E) (Settlement Parties) in this proceeding. The OCA advocates for Commission approval of the Joint Petition for Settlement because it is supported by substantial evidence of record and is consistent with applicable law.

II. BACKGROUND

On February 17, 2023, Aqua filed an Application under Sections 507, 1102, and 1329 of the Public Utility Code, and on March 28, 2024, Aqua filed an Amended Application (Application).¹ Through its Application, Aqua requested that the Commission enter an order granting the certificate of public convenience authority pursuant to 66 Pa. C.S. Sections 1102 and 1103 to authorize: (1) Aqua's acquisition of the wastewater system assets owned by the City (Transaction); and (2) Aqua's provision of wastewater service in the City, Eastvale Borough, and West Mayfield Borough, Beaver County, Pennsylvania. Application ¶¶ 3, 5. Additionally, Aqua requested approval of (1) the Asset Purchase Agreement dated October 20, 2021, between Aqua and the City, and (2) the \$41,250,000 purchase price as the ratemaking rate base of the acquired

¹ A complete procedural history is included in the OCA's Statement in Support. *See* OCA Statement in Support at 1-4.

Assets pursuant to 66 Pa. C.S. Section 1329(c)(2). Application ¶¶ 3, 5, 56. Finally, Aqua requested approval of other municipal agreements pursuant to Section 507 of the Public Utility Code, to the extent necessary. Application ¶¶ 69-70.

The OCA is an active litigant in this proceeding. ALJ Brady admitted into evidence the OCA's pre-served written direct and surrebuttal testimonies of Nicholas A. DeMarco (OCA Statements 1 and 1SR) and David J. Garrett (OCA Statements 2 and 2SR).² Additionally, on March 18, 2025, the OCA submitted its Main Brief, and argued that the Commission should deny the Application because Aqua failed to demonstrate with substantial evidence that the proposed acquisition will provide substantial affirmative public benefits as required under applicable law. OCA M.B. at 9. Additionally, the OCA argued that the Applicant's proposed ratemaking rate base for the Beaver Falls system is overstated due to unreasonable subjective decisions by the Utility Valuation Experts (UVEs) in making their appraisals. *Id.*

As such, the OCA asserted that if the Commission decided to approve the acquisition, the Commission should adopt OCA witness Garrett's reasonable adjustments to UVE appraisals, which in total reduced the ratemaking rate base for the Beaver Falls system to \$19,628,354. *Id.* The OCA also argued that any approval should be further conditioned on the OCA's proposed conditions stated in OCA witness DeMarco's testimony. *Id.*

Between testimony and briefing, the parties engaged in good faith, extensive settlement negotiations culminating in the Joint Petition for Settlement in this case. On March 21, 2025, counsel for Aqua informed ALJ Brady that a settlement had been achieved between Aqua, the City, OCA, and I&E, and that the Office of Small Business Advocate (OSBA) expressed its opposition to the settlement. OCA Statement in Support at 4. On March 25, 2025, the Settlement

² The qualifications of Mr. DeMarco and Mr. Garrett are set forth in the OCA's Statement in Support.

Parties filed the Joint Petition for Settlement, which included the OCA's Statement in Support.

On March 28, 2025, the OSBA filed a Brief in Opposition to the Joint Petition for Settlement, arguing that the \$29.9m ratemaking rate base contained therein should be rejected. *See* OSBA Brief in Opposition to the Settlement. According to the OSBA, the Joint Petition for Settlement's potential rate impact is unreasonable, the Commission's Reasonableness Review Ratio (RRR) should be considered, and the Transaction does not comply with the requirements set forth in the *City of York*³ proceeding. *Id.*

On April 10, 2025, the ALJ issued his Recommended Decision and recommended that the Commission deny the Settlement on the basis that the Settlement Parties' agreement to a \$29,900,000 ratemaking rate base is contrary to law. R.D. at 10.

The OCA files these Exceptions to the RD.

³ *York v. Pa. PUC*, 295 A.2d 825, 828 (Pa. Cmwlth. 1972).

III. EXCEPTIONS

A. Exception No. 1: The Joint Petition for Settlement is in accordance with the Public Utility Code and prior Commission Orders. R.D. at 8-10; OCA M.B. at 29-47.

The ALJ cited to Section 1329(c), which states as follows:

(c) Ratemaking rate base.--The following apply:

(1) The ratemaking rate base of the selling utility shall be incorporated into the rate base of:

- (i) the acquiring public utility during the acquiring public utility's next base rate case; or
- (ii) the entity in its initial tariff filing.

(2) The ratemaking rate base of the selling utility *shall be* the lesser of the purchase price negotiated by the acquiring public utility or entity and selling utility or the fair market value of the selling utility.

R.D. at 8-9 (*citing* 66 Pa. C.S. § 1329(c)) (emphasis added).

In interpreting the provisions of Section 1329(c)(2), the ALJ said, “this requirement is not negotiable.” *Id.* at 9. Based on the ALJ’s statutory interpretation, the ALJ concluded that, because the Joint Petition contains a ratemaking rate base value that reflected a compromise of the parties’ litigation positions as to the UVE appraisals of the system, the Joint Petition is in violation of the Code and unenforceable. *Id.* at 9-10.

The OCA respectfully disagrees with the ALJ’s statutory interpretation as it runs contrary to the Commission’s prior interpretation of the statute and produces an absurd result where the Commission is blanketly prohibited from exercising its expert ratemaking discretion to adopt adjustments to the UVE appraisals that the Commission finds reasonable. Accordingly, the OCA submits that the ALJs’ conclusion that the Joint Petition for Settlement runs contrary to law, is incorrect, and is plain error. For the reasons that follow, the Commission should not adopt the ALJs’ conclusion or the statutory interpretation that resulted in it.

1. The RD legal conclusions and analysis run contrary to Section 1329 of the Public Utility Code and prior Commission Orders that correctly and properly interpret Section 1329.

Fair Market Value is not a means by which the UVEs can submit appraisals without challenge. There is an important distinction between fair market value and UVE appraisals in the statute that the Recommended Decision does not consider. Fair market value is defined as “the average of the two [UVE] appraisals conducted under subsection (a)(2).” 66 Pa. C.S. § 1329(g). Hence, by this definition, the average of the two UVE valuations results in the fair market value. In contrast, an appraisal of a UVE is the underlying assumptions, judgements, and calculations of a UVE to arrive at a valuation, made in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), employing the cost, market and income approaches. 66 Pa. C.S. § 1329(a)(3). Adjustments to UVE appraisals are different from adjustments to the fair market value.

As discussed in the OCA’s Main Brief, and as explained further below, the question of whether parties can challenge UVE appraisals is a settled one, and the Commission has decided, in sum: (1) that it can be done, and (2) that the Commission can adopt fully substantiated, reasonable adjustments to the UVE appraisals. *See* OCA M.B. at 32-33.

In *New Garden*, the first Section 1329 proceeding, the Commission found that “Section 1329 permits the Commission and the Parties to develop a record pertaining to the review and analysis of the fair market value appraisals of the UVEs.” *Application of Aqua Pennsylvania Wastewater, Inc.*, Docket No. A-2016-2580061, Order at 35 (June 29, 2017) (internal citations omitted) (*New Garden*).

In other Section 1329 proceedings, the Commission reiterated that Section 1329 contains no prohibitions on the ability of parties to review the UVE appraisals as to their reasonableness. In *Limerick*, the Commission stated as follows:

We agree that Section 1329 does not prevent a review of the UVE assumptions for reasonableness, and for the reasons discussed below, we find that the ALJ appropriately considered several of the recommendations to the fair market appraisals of the Limerick system.

Application of Aqua Pennsylvania Wastewater, Inc., Docket No. A-2017-2605434, Order at 36 (Nov. 29, 2017) (*Limerick*).

In *Cheltenham*, the Commission provided the following extensive discussion on the issue:

Furthermore, the Commission has already considered and rejected Aqua's position and determined that Section 1329 contains no prohibitions on the ability of parties, or the Commission, to review the UVE appraisals as to their reasonableness and, accordingly, propose, or adopt, adjustments to the UVE appraisals. Specifically, in the *Limerick Order*, citing to the *New Garden Order*, we rejected Aqua's position in those cases, the position Aqua reiterated in this proceeding. *Limerick Order* at 35-36.

Additionally, the Commission's unchallenged *FSIO*, Appendix C, containing the Commission's "Additional Guidelines" for UVE appraisals clearly gives additional support to our authority to apply appropriate ratemaking principles and policy to appraisals conducted by UVEs in compliance with USPAP. The Additional Guidance contains the Commission's guidance on UVE appraisals, which, as adopted to date, is mostly consistent with the Commission's adjudications in the *Limerick Order* and the *Limerick July 12, 2018 Order*. When a UVE prepares an appraisal in compliance with the Additional Guidelines, it means the appraisal is adjusted from the very start to comply with the principles and methods of utility property valuation set forth in the Additional Guidelines. Moreover, we reject Aqua's argument that the Additional Guidelines was intended to limit any future litigation regarding UVE appraisals. The Commission's adoption of the Additional Guidelines did not mean the Commission barred itself from analyzing and adjudicating the parties' position on whether a UVE's valuation is to be adjusted for reasonableness based on the individual record before it.

Furthermore, we have already declared in the *FSIO*, Appendix C, that materials submitted in support of a request for Section 1329 fair market valuation pursuant to the USPAP must conform to applicable Pennsylvania law even if in conflict with USPAP. For purposes of Section 1329, we expressly stated that Pennsylvania law includes the Pennsylvania Constitution, statutes, regulations, court precedent, and administrative rules and orders issued by administrative agencies.

Therefore, we agree with the OCA and the ALJ that the statutory appraisal process is not simply a formulaic mathematical exercise, nor is the Commission acting as some type of USPAP-compliance board. We agree that review of the appraisals provided by Aqua and Cheltenham UVEs shows that there are judgments made in

each type of analysis as well as in how much weight is to be given to each approach. We also agree that it would be inconsistent with the requirements of the Code and prior Commission orders to permit Aqua to simply present a rate base number, show that the appraisers chose numbers to fill in all the blanks in the formulas and based solely upon the judgments of the UVEs, and to not permit any review or challenges of those inputs, methods or judgments.

Application of Aqua Pennsylvania Wastewater, Inc., Docket No. A-2019-3008491, Order at 36-40 (*Cheltenham*) (Nov. 5, 2019).

The Commission subsequently made the same determination in other Aqua Section 1329 acquisitions, including the *Lower Makefield*⁴ and *Willistown* acquisitions. *Application of Aqua Pennsylvania Wastewater, Inc.*, Docket No. A-2021-3927268, Order at 73 (July 8, 2022) (*Willistown*).

Section 1329 does not eliminate the Commission's authority and discretion to determine the appropriate rate base value for ratemaking purposes. Instead, it prescribes the method by which that valuation is permitted where certain circumstances are present. It also does not prohibit the Commission's authority and discretion to consider substantial evidence presented by statutory advocates regarding adjustments to UVE appraisals. To decide otherwise, like the ALJ recommended here, is tantamount to a blanket prohibition on the Commission from exercising its expert ratemaking discretion to adopt adjustments to the UVE appraisals that the Commission finds reasonable.

2. The RD is inconsistent with the Commission's Final Supplemental Implementation Order and Reasonable Review Ratio.

The Recommended Decision is also inconsistent with the Commission's Final Supplemental Implementation Order on Section 1329. Based on the *FSIO*, the Commission intends for a Reasonable Review Ratio (RRR) to be considered in Section 1329 acquisitions in regard to

⁴ *Application of Aqua Pennsylvania, Inc.*, Docket No. A-2021-3024267, Order (Jan. 13, 2022) (*Lower Makefield*)

ratemaking rate base. OCA M.B. at 25-26; *Valuation of Acquired Municipal Water and Wastewater Systems- Act 12 of 2016 Implementation*, Final Supplemental Implementation Order, M-2016-2543193, at 103-106 (July 2, 2024) (*FSIO*). Specifically, from the vantage point of an approximation of a ratio of a proxy fair market value to the depreciated original cost of similarly-situated investor owned water utilities, the Commission calculated an RRR with a 1.68 market value ratio. *See* OCA M.B. at 25. If the ALJ’s interpretation of Section 1329 is adopted, the RRR would seemingly contradict Section 1329 as no other ratemaking rate base could be applied to acquired systems beyond the lesser of the average of the unadjusted UVE appraisals or the purchase price.

The Commission also recently reiterated in the *FSIO* that “UVEs are required to weigh each valuation result evenly: one-third for cost, one-third for market, and one-third for income.” *FSIO* at 62. However, in this proceeding, both UVEs applied unequal weightings to their UVE approaches. OCA M.B. at 16-17. As such, OCA witness Garrett recommended adjustments to the UVE appraisals to equally weigh the UVE approaches. *Id.* This recommended adjustment alone decreased the average of the UVE appraisals from \$41,250,000 to \$37,890,758.50, which is a decrease of \$3,359,241.50. OCA M.B. at 47.

Similar to the RRR, if the ALJ’s interpretation of Section 1329 is adopted, it would also contradict the Commission’s discussion in the *FSIO* regarding equal UVE approach weightings. This adjustment, in particular, illustrates in a practical manner how judgment plays a role in the UVEs determinations about the FMV of the City’s assets. OCA M.B. at 31. Both UVEs used the same three approaches to calculate FMV, yet both came up with different results overall, and different results through each individual approach. *Id.* The Recommended Decision ignores this reasonable adjustment and simply states that the FMV submitted by the Applicants is “not

negotiable.” R.D. at 9. However, as the OCA stated in its Main Brief, the Commission should carefully consider the assumptions informing each UVE’s appraisal results, the flaws in those assumptions that are identified in the OCA’s testimony, and consider that the adjustments proposed by the OCA properly reflect financial and ratemaking principles. OCA M.B. at 31.

B. Exception No. 2: The Joint Petition for Settlement represents a compromise of the parties’ litigation positions as to the UVE appraisals and is permissible under the Public Utility Code, Commission policy and orders. R.D. at 8-11; OCA M.B. at 29-47.

As the ALJ correctly identified in the RD, it is the policy of the Commission to encourage settlements. RD at 8 *citing* 52 Pa. Code § 5.231.

Achieving a settlement that reflects a compromise of the parties’ litigation positions on the UVE appraisals is not in conflict with Section 1329. However, Conclusions of Law 2 through 5 in the Recommended Decision indicate that the Settlement is illegal because the parties agreed to a ratemaking rate base that was not equivalent to the Applicant’s proposed ratemaking rate base. R.D. at 10-11. The ALJ misreads the Joint Petition for Settlement as a mere arbitrary agreement to a \$29,900,000 ratemaking rate base for the to-be-acquired system assets. R.D. at 9-11. However, as fully supported in the OCA’s Statement in Support, this agreed-upon ratemaking rate base reflects a reasonable compromise between the litigants’ on-the-record positions as to the adjustments to the UVE appraisals, which was the result of extensive, good faith settlement negotiations. While the OCA addressed its recommended adjustments based on substantial evidence at length in its Main Brief (OCA M.B. at 29-47), the ratemaking rate base value agreed to by the Settlement Parties is the result of compromise as to the adjustments of the UVE appraisals.⁵

⁵ The OCA notes that while the OCA’s Main Brief was filed on March 18, 2025, the Settlement Parties notified the ALJ that a Settlement was achieved only 3 days later, on March 21, 2025. As such, despite the OCA filing a timely

Importantly, the Joint Petition for Settlement also reflects the parties' compromise on other important issues addressed in litigation, which the Recommended Decision rejects with no discussion.

As discussed extensively above, the Commission undoubtedly has the authority to make adjustments to the appraisal results of the UVEs in order to establish the fair market value. Here, where OCA witness Garrett recommended a reasonable adjustment to a UVE appraisal, that adjustment was incorporated into OCA witness Garrett's overall adjustment to the UVE appraisals. After OCA witness Garrett adjusted the UVE appraisals, the average of the two UVE appraisals established the fair market value. *See* OCA M.B. at 47.

Based on appraisals presented by Aqua and Beaver Falls (\$44,291,793 and \$40,199,348, respectively), Aqua sought a \$41,250,000 ratemaking rate base for the Beaver Falls wastewater system, which was the price Aqua originally agreed to pay for the System. OCA Statement in Support at 5. The OCA's expert witness, David Garrett⁶, recommended that \$19,628,354 be used for ratemaking rate base based on his recommended adjustments to the UVE valuation results. *See* OCA M.B. at 29-47; OCA Statement in Support at 5. The OCA relied on substantial record evidence in support of its adjustments to the UVE appraisals. *Id.*

The Recommended Decision's conclusion is that the OCA's Main Brief, Statement in Support, Testimony, and adjustments should essentially be given no weight for a determination of

Main Brief, the OCA continued to pursue a reasonable settlement between the parties and the Settlement was achieved shortly after Main Briefs were submitted.

⁶ Mr. Garrett is the managing member of Resolve Utility Consulting, LLC. He is an independent consultant specializing in public utility regulation. Mr. Garrett has represented numerous consumer groups and state agencies in utility regulatory proceedings, primarily in the areas of cost of capital and depreciation. He is a Certified Depreciation Professional with the Society of Depreciation Professionals. He is also a Certified Rate of Return Analyst with the Society of Utility and Regulatory Financial Analysts. Mr. Garrett's background and qualifications are attached as Exhibit DJG-1 to OCA Statement 2.

whether the Settlement is in the public interest. The appraisals of two UVEs are required for purposes of determining fair market value under Section 1329, but nowhere is it provided that there can be no criticism regarding the UVEs already-calculated fair market value before the Commission. Mr. Garrett employed standard financial and business models based on financial and utility ratemaking expertise to make recommendations as to how to correct assumptions within the UVE appraisals that are unreasonable or inconsistent with utility practice. *See* OCA M.B. at 29-47.

In the OCA's view, the Settlement's \$29.9 million ratemaking rate base represents an amount that is within the range of possible outcomes in a Commission final order in the event of full litigation of the case based on substantial record evidence. *See* OCA Statement in Support at 5. At the same time, the Settlement provides mitigation of the rate impact of the transaction for existing Aqua customers and the acquired Beaver Falls customers by reducing overall costs (Settlement ¶¶ 39-42) while simultaneously establishing a rate gradualism outcome that is overall consistent with the OCA's litigation position in this matter. *Id.* The OCA's expert witness recommended adjustments to the FMV appraisals, which resulted in a \$19,628,354 valuation. *Id.* As stated in the OCA's Statement in Support, the proposed ratemaking rate base under Settlement is \$11.35 million less than requested by the Applicants and approximately \$10.3 million more than the OCA's litigation position. *Id.*

C. Exception No. 3: Litigation should not be the only means by which the OCA's reasonable adjustments to the UVE appraisals can be considered or adopted.

As stated in the Recommended Decision, it is the policy of the Commission to encourage settlements as settlements lessen the time and expense the parties must expend litigating a case and conserves administrative resources. R.D. at 8 (internal citations omitted). The Recommended Decision claims that the parties cannot deviate from the UVE appraisals on any basis for purposes

of Settlement. R.D. at 8-11. However, requiring the OCA to litigate every Section 1329 proceeding in order to have the Commission adopt the OCA's proposed adjustments is contrary to the Commission's policy encouraging settlements. *See* R.D. at 8 (internal citations omitted).

To date, sixteen Section 1329 proceedings have settled. Of these sixteen settlements, six settlements (*McKeesport, Sadsbury, Exeter, Steelton, East Norriton, and Butler*) resulted in a difference between the initially proposed FMV and the Commission-approved ratemaking rate base.⁷ Three Section 1329 proceedings were litigated and resulted in a variance between the initially proposed FMV and the approved ratemaking rate base (*Limerick, Cheltenham, and East Whiteland*).⁸ The Recommended Decision implies that these litigated and settled cases are contrary to the law.

If the ALJ's approach is adopted by the Commission, it will limit settlement negotiations going forward unless one party entirely concedes to the Applicant's presented unadjusted appraisals. Importantly, in addition to the OCA's Statement in Support, the OCA filed a Main Brief in this proceeding.⁹ The OCA's reasonable adjustments to the UVE appraisals should not be required to result in litigation if a settlement can be achieved by the parties.

⁷ *Application of Pennsylvania-American Water Company*, Docket No. A-2017-2606103, Order (Oct. 11, 2017) (*McKeesport*); *Application of Pennsylvania-American Water Company*, Docket No. A-2018-3002437, Order (Oct. 25, 2018) (*Sadsbury*); *Application of Pennsylvania-American Water Company*, Docket No. A-2018-3334933, Order (Oct. 3, 2019) (*Exeter*); *Application of Pennsylvania-American Water Company*, Order Docket No. A-2019-3006880, Order (Oct. 3, 2019) (*Steelton*); *Application of Aqua Pennsylvania, Inc.*, Docket No. A-2016-2580061, Order (May 21, 2020) (*East Norriton*); *Application of Pennsylvania-American Water Company*, Docket No. A-2022-3037047, Order (Nov. 16, 2023) (*Butler*).

⁸ *Application of Aqua Pennsylvania Wastewater, Inc.*, Docket No. A-2017-2605434, Order (Nov. 29, 2017) (*Limerick*); *Application of Aqua Pennsylvania Wastewater, Inc.*, Docket No. A-2019-3008491, Order (Nov. 5, 2019) (*Cheltenham*); *Application of Aqua Pennsylvania Wastewater, Inc.*, Docket No. A-2021-3026132, Order (July 29, 2022) (*East Whiteland*).

⁹ While the Recommended Decision correctly states that the word "FMV" was not mentioned in the OCA's Statement in Support, the OCA's Main Brief discussed FMV. *See* OCA M.B. at 26, 30-31, 46-47.

The ratemaking rate base contained in Settlement was a carefully considered compromise between the Settlement Parties' positions across multiple issues based on various litigations established in the evidentiary record. The Recommended Decision, however, disregards the evidentiary record and denies any Settlement regarding the approved ratemaking rate base in Section 1329 proceedings unless the agreed-upon fair market value is the average of the two UVE appraisals without reasonable adjustments. The Recommended Decision should be rejected and the Settlement should be approved by the Commission without modification.

IV. CONCLUSION

As Section 1329 does not delegate or otherwise eliminate the Commission's authority to determine rate base for ratemaking purposes and to consider testimony by statutory advocates regarding UVE appraisals, the OCA respectfully submits that the Commission approve the Settlement without modification.

Respectfully Submitted,

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