

COMMONWEALTH OF PENNSYLVANIA



DARRYL A. LAWRENCE
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
 /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

June 9, 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
Harrisburg, PA 17120

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

Dear Honorable Judges Guhl and Arnold:

Please find enclosed a copy of the Main Brief 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
Jacob D. Guthrie, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 334367
Email: JGuthrie@paoca.org

Enclosures

cc: Secretary Matthew L. Homsher (Cover Letter and Certificate of Service Only)
Certificate of Service

CERTIFICATE OF SERVICE

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 documents, the Office of Consumer Advocate’s Main Brief, 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. This document was filed electronically on the Commission’s electronic filing system.

Dated this June 9th, 2025.

SERVICE BY E-MAIL ONLY

Carrie B. Wright, Esq.
Michael Podskoch, Esq.
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

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

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

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

Dated: June 9, 2025

/s/ Jacob D. Guthrie
Jacob D. Guthrie, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 334367
Email: JGuthrie@paoca.org

Ryan Morden, Esq.
Assistant Consumer Advocate

Melanie Joy El Atieh, Esq.
Deputy Consumer Advocate
Email: OCAPIKEBRC2024@paoca.org

Counsel for:
Darryl A. Lawrence
Acting Consumer Advocate

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

MAIN BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

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

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

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

Date: June 9, 2025

Counsel for:
Darryl A. Lawrence
Acting Consumer Advocate

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I. INTRODUCTION

The Office of Consumer Advocate (OCA) joins in the Joint Petition for Non-Unanimous Settlement (Joint Petition or Settlement) along with Pike County Light & Power Company (Pike or Company) and the Commission’s Bureau of Investigation and Enforcement (I&E) (Settling Parties). All issues are resolved between the Settling Parties. However, the Office of Small Business Advocate (OSBA) does not join in the Settlement and expressed its intent to litigate Pike’s general rate increase request. Therefore, the OCA submits this Main Brief in accordance with the procedural schedule established by Administrative Law Judges (ALJs) Alphonso Arnold III and Marta Guhl to reiterate its support of the Settlement, as set forth fully in its Statement in Support, and address the arguments of the OSBA.

The Settlement includes a revenue requirement increase proposed on a black-box basis, without the designation of specific line-item adjustments, with several exceptions, or a specified cost of capital for the Company. As a result, the OCA incorporates by reference the revenue requirement terms of the Settlement in lieu of rate case tables as if appended to this Brief. *See* Settlement at ¶¶ 4-6. The OCA also incorporates by reference the proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs included in the Joint Petition filed June 9, 2025, as if appended in full to this Brief. *See Id.* at App’x A-D. Attached as Appendix A to this Brief is a list of the OCA’s Testimony and Exhibits that were admitted into the evidence in this case by Order of ALJs Arnold and Guhl on May 29, 2025.

A. Description of the Office of Consumer Advocate

The OCA is a statutory advocate with the authority and duty to represent the interest of consumers as a party before the Pennsylvania Public Utility Commission (Commission) in public utility rate requests. 71 P.S. § 309-4. The OCA’s interest in this case is to ensure that consumers who ultimately pay the revenue requirement to the Company are paying enough, but no more than

is necessary, to ensure that service remains adequate, reliable, and safe while allowing the Company to have the opportunity to recover its prudently incurred costs and earn a fair rate of return on its investments.

B. Procedural History

On January 14, 2025, Pike filed Supplement No. 105 to Tariff Electric – Pa. P.U.C. No. 8, with the Commission, to become effective on March 15, 2025. The Company filed to increase rates to produce additional operating revenues of \$1,874,600 per year above existing rates. Pike additionally proposed to roll into distribution rates its Distribution System Improvement Charge (DSIC) balance of \$269,300. The actual distribution revenue increase in this case as proposed by Pike is \$2,143,900 or 13.2% based upon a future test year ending September 30, 2025.

On January 24, 2025, the OCA filed a Formal Complaint, Public Statement and Notice of Appearance in this proceeding 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, the OSBA filed a Notice of Appearance. On January 24, 2025, the OSBA filed a Formal Complaint. On January 17, 2025, I&E filed a Notice of Appearance.

On February 6, 2025, the Commission entered an Order at the captioned docket, suspending the tariff by operation of law until October 15, 2025, instituting an investigation to determine the lawfulness, justness, and reasonableness of the proposed and existing rates, rules, and regulations, and assigning the rate filings to the Office of Administrative Law Judge (OALJ) for the prompt scheduling of hearings as may be necessary culminating in the issuance of a recommended decision.

There were four Public Input Hearings held in this proceeding, in conjunction with the natural gas distribution rate proceeding, at which 26 individuals testified under oath, an overwhelming majority of them in opposition to the Company's rate relief request. Tr. 96-228. Two Public Input Hearings were held in Milford, PA and two were held telephonically.

Consistent with the procedural schedule issued by ALJs Arnold and Guhl, the OCA served on the ALJs and the parties its written Direct, Rebuttal, and Surrebuttal Testimonies on April 3, 2025, May 1, 2025, and May 15, 2025, respectively, in which the OCA opposed and/or recommended adjustments to the Company's requests and opposed the recommendations of the OSBA.

On May 13, 2025, ALJs Arnold and Guhl issued a Briefing Order establishing deadlines for the filing of Main Briefs.

On May 19, 2025, counsel for the Company informed the ALJs that the Settling Parties reached the Settlement. The OSBA is the only party opposing the Settlement. On May 27, 2025, ALJs Arnold and Guhl issued an Order establishing deadlines for the submission of the Joint Petition and Statements in Support of the Settlement.

On May 29, 2025, ALJs Arnold and Guhl issued an Order admitting by joint stipulation the pre-served, written testimony of the OCA, the Company, I&E, and OSBA.

Pursuant to the May 13, 2025, Briefing Order, the OCA now submits the instant Main Brief in support of the Settlement and in opposition to the positions of the OSBA regarding the appropriate cost-of-service study, revenue allocation, and rate design.

C. Legal Standards

1. Utility Monopoly Regulation

Pike is a combined natural gas and electric distribution utility with an exclusive monopoly franchise. Customers who reside in its certificated service territory have no choice; if they want natural gas or electric distribution service, they must buy it from Pike. Utility regulation stems from the state's police power to protect the health, safety, morals, and general welfare of their citizens. States have the power to regulate the use of private property and the rates charged by certain private companies in industries "clothed with a public interest." *Munn v. Illinois*, 94 U.S. 113, 126 (1877). "[T]he regulation of utilities is one of the most important of the functions traditionally associated with the police power of the States." *Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 377 (1983). The Public Utility Code governing sales that are only rationally dealt in by a monopoly is a proper exercise of the state police power to regulate the health, safety, morals, and general welfare of citizens. *Relief Elec. Light, Heat & Power Co's. Petition*, 63 Pa. Super 1, 6-11, 1916 Pa. Super. LEXIS 89 (Pa. Super. 1916). The Commission's comprehensive authority under the Public Utility Code to oversee and regulate jurisdictional public utilities is a constitutional exercise of traditional state police powers as a reasonable exercise of police power by appropriate means for a legitimate end. *Jenkins Twp. v. Pub. Serv. Comm'n*, 65 Pa. Super. 122, 1916 Pa. Super. LEXIS 30, **15-16 (Pa. Super. 1916) ("The authority which the commission seeks to exercise in this case is clearly the exercise of the police power inherent in our State as delegated to the commission by the provisions of the Public Service Company Law" (which the Public Utility Law of 1937 replaced) (which the Code (of 1978) replaced)).¹

¹ See also Charles F. Phillips, Jr., *The Regulation of Public Utilities: Theory and Practice*, 87 (Pub. Utils. Reports, Inc., 3rd ed. 1993); James H. Booser, *The Constitutional Limitations on Public Utility Regulation*, 67 Dick. L. Rev. 363, 364 (1963), available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol67/iss4/3> (last visited Mar. 21, 2024).

2. Burden of Proof for Non-Unanimous Settlements

The Company bears the full burden of proof to establish the justness and reasonableness of every element of its requested rate increase:

Reasonableness of rates – In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon the complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

66 Pa. C.S. § 315(a). The evidence necessary to meet that burden must be substantial, legally credible, and cannot be a mere “suspicion” or “scintilla” of evidence. *Lower Frederick Twp. Water Co. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980); *Lansberry v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990) (*Lansberry*).

The party with the burden of proof has a formidable task to show that the Commission may lawfully adopt its position. *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983) (*Burleson*). Even where a party has established a prima facie case, the party with the burden must establish that “the elements of that cause of action are proven with substantial evidence which enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary.” *Id.* Furthermore, it is well-established that the “degree of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence.” *Lansberry* at 602.

The burden of proof does not shift to parties challenging the rate increase, but rather must be met by the utility:

It is well-established that in general rate increase proceedings, the burden of proof does not shift to parties challenging a requested rate increase. Rather, the utility’s burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one and that burden remains with the public utility throughout the course of the rate proceeding. It has been held that there is no similar burden placed on other parties to justify a proposed adjustment to the utility’s filing.

Pa. PUC v. Pa.-American Water Co., 231 P.U.R.4th 277, 2004 Pa. PUC LEXIS 29, *16-18 (Jan. 29, 2004) (*PAWC 2004*) (citing *Berner v. Pa. PUC*, 116 A.2d 738 (Pa. 1955) (*Berner*)). In *Berner*, the Pennsylvania Supreme Court stated:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations and that is the burden which the utility patently failed to carry.

Berner at 744. The Commission recognizes in its rate determinations that the burden of proof will not shift to a complainant or intervener that is challenging the requested rate increase. *Pa. PUC v. Equitable Gas Co.*, 57 Pa. PUC 423, 471 (1983); see also *University of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984); *Pa. PUC v. PPL Elec. Utils. Corp.*, 237 PUR4th 419 (PaPUC 2004) (Order entered Dec. 22, 2004).

A public utility may elect to use a future test year (FTY) “in discharging its burden of proof.” 66 Pa. C.S. § 315(e). However, the utility must provide evidence to support all estimates of increased costs in its FTY. The Code provides:

Whenever a utility utilizes a future test year or a fully projected future test year in any rate proceeding and such future test year or a fully projected test year forms a substantive basis for the final rate determination of the commission, *the utility shall provide*, as specified by the commission in its final order, *appropriate data evidencing the accuracy of the estimates contained in the future test year or a fully projected future test year*, and the commission may after reasonable notice and hearing, in its discretion, adjust the utility's rates on the basis of such data.

Id. (emphasis added). Should the utility fail to prove that the projections relied upon in its FTY are accurate, the Commission should not accept those projections and may adjust the public utility's revenue requirement increase request to remove unsupported projections. *Id.*

Parties requesting that the Commission adopt a settlement without modification bear the burden of proof to show that the terms and conditions of the settlement are in the public interest and share the burden with the utility to establish that the proposed settlement is in the public

interest and results in just and reasonable rates. 52 Pa. Code § 5.231; *Pa. PUC v. City of Bethlehem – Water Dept.*, Docket No. R-2020-3020256 (Order entered April 15, 2021) at 13. “It is the Commission’s duty to determine the public interest and to protect the rights of the public.” *Duquesne Light Co. v. Pa. PUC*, 715 A.2d 540, 546 (Pa. Cmwlth. 1998) (citations omitted).

“The Commission’s standards for reviewing a non-unanimous settlement . . . are the same as those for deciding a fully contested proceeding.” *Joint App. of West Penn Power Co. d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp.*, Docket Nos. A 2010 2176520 *et al* (Order entered March 8, 2011) at 17. As such, every rate the public utility proposes to charge under the terms of the settlement must still be just and reasonable. *Popowsky v. Pa. PUC*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky 1996*); 66 Pa. C.S. § 1301(a). A non-unanimous settlement must demonstrate that the proposed rates are “supported by substantial evidence of record, achieve a fair and equitable balance of the issues impacting the Company, residential consumers, business customers, and the public interest at large, and are in the public interest.” *Pa. PUC v. Pa.-American Water Co.*, Docket Nos. R-2020-3019369 *et al.* (Order entered Feb. 25, 2021) at 46. If the petitioners fail to meet their burden of proof, the Commission may deny the petition for settlement or modify the settlement such that the results achieved are just and reasonable rates.

3. Just and Reasonable and Not Unduly Discriminatory Rates

As a matter of law, a public utility’s rates must be just and reasonable and in conformity with regulations or orders of the Commission. 66 Pa. C.S. § 1301(a). A public utility may obtain “a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment.” *City of Lancaster Sewer Fund v. Pa. PUC*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002) (*Lancaster 2002*).

The Commission “has broad discretion in determining whether rates are reasonable” and “is vested with discretion to decide what factors it will consider in setting or evaluating a utility’s rates.” *Popowsky 1996*, 683 A.2d at 961 (emphasis added). The Commission’s discretion to determine if a requested rate is just and reasonable includes the “power to make and apply policy” concerning the appropriate balance between rates charged to consumers and returns allowed to utility investors. *Popowsky v. Pa. PUC*, 665 A.2d 808, 812 (Pa. 1995) (*Popowsky 1995*).

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

Id. (citations omitted) (emphasis added).

A utility’s cost of providing service guides the ratemaking process. *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006) (*Lloyd*). Additional important ratemaking concerns include quality of service, rate gradualism, and rate affordability. *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2020-3018835 (Order Feb. 19, 2021) (*Columbia 2020*), at 46-47 (citing 66 Pa. C.S. §§ 523, 526(a)) (citing also *Lloyd* at 1020 and *Pa. PUC v. Twin Lakes Util., Inc.*, Docket No. R-2019-3010958 (Order Mar. 26, 2020) at 48, 80).²

The Commission must determine whether projected expenses “are reasonably necessary to provide service...” during the prospective period in which its rates will be in effect. *Lancaster 2002* at 982. Only prudently incurred expenses are includable in expense claims; it is the burden of the public utility to prove that the expenses incurred are just and reasonable; and it is within the

² Available at <https://www.puc.pa.gov/pcdocs/1693880.docx>.

discretion of the Commission to exclude expenses as unreasonable. *Popowsky 1996*, 674 A.2d at 1154 (internal citations omitted).

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

4. Reasonable Opportunity to Earn a Fair Rate of Return

A public utility is entitled to no more than a reasonable opportunity to earn a fair rate of return on its investments dedicated to public service. *Pennsylvania Gas & Water Co. v. Pa. PUC*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975) (citations omitted). The United States Supreme Court held:

The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to raise the money necessary for the proper discharge of public duties.

Bluefield Water Works and Improvement Co. v. Public Serv. Comm’n of W.Va., 262 U.S. 679, 692-93 (1923) (*Bluefield*). The allowed rate of return should reflect:

[A] return on the value of the [utility’s] property which it employs for the convenience of the public equal to that being made at the same time on investments in other business undertakings which are attended by corresponding risks and uncertainties.

Bluefield at 692. However, a fair return for public utility service is not equivalent to “profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.” *Id.* At 692-693. A fair rate of return “should be commensurate with returns on investments in other enterprises having corresponding risks” while being sufficient “to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital.” *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (*Hope*). The Supreme Court noted, however, that:

The rate-making process under the Act, i.e., the fixing of ‘just and reasonable’ rates, involves a balancing of the investor and consumer interests. Thus we stated...that *regulation does not insure that the business shall produce **net** revenues.*”

Id. (emphasis added) (internal quotations omitted); *see also Pa. PUC v. Phila. Suburban Water Co.*, 71 Pa. PUC 593, 623 (1989) (*PSW 1989*) (citing *Pittsburgh v. Pa. PUC*, 69 A.2d 844 (Pa. Super. 1949)); *see also Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310, 312 (1989) (*Duquesne Light*), *aff’g Barasch v. Pa. PUC*, 532 A.2d 325 (Pa. 1987).

Consumers cannot readily negotiate with a utility and must “rely upon” the Commission to provide “a complete, permanent, and effective bond of protection from excessive rates and charges” of the public utility. *Permian Basin Area Rate Cases*, 390 U.S. 747, 794-95 (1968) (*Permian Basin*) (citing *Atlantic Ref. Co. v. Pub. Serv. Comm’n*, 360 U.S. 378, 388 (1981)). The Commission’s “responsibilities include the protection of future, as well as present, consumer interests.” *Permian Basin* at 797. Rates adopted by the Commission that are within a “zone of reasonableness” can withstand constitutional scrutiny. *Id.* at 797.

Cost of capital analyses are generally accepted by the Commission as a basis for determining a fair rate of return under the “just and reasonable” standard of the Code. In *PSW 1989*, the Commission defined an appropriate rate of return as:

[T]he amount of money a utility earns, over and above operating expenses, depreciation expense, and taxes, expressed as a percentage of the legally established net valuation of utility property, the rate base. Included in the “return” are interest on long-term debt, dividends on preferred stock, and earnings on common equity. In other words, the return is the money earned from operations which is available for distribution among the various classes of contributors of money capital.

PSW 1989 at 622-23 (quoting Paul J. Garfield & Wallace F. Lovejoy, *Public Utility Economics*, 116 (1964)). Additionally, the Commission stated:

A fair rate of return for a public utility, however, is not a matter which is to be determined by the application of a mathematical formula. It requires the exercise of informed judgment based upon an evaluation of the particular facts presented in each proceeding. There is no one precise answer to the question as to what

constitutes the proper rate of return. The interests of the Company and its investors are to be considered along with those of the customers, *all to the end of assuring adequate service to the public at the least cost*, while at the same time maintaining the financial integrity of the utility.

Pa. PUC v. Pa. Power Co., 55 Pa. PUC 552, 579 (1982) (*Pa. Power*) (emphasis added); *see also Pa. PUC v. Nat'l Fuel Gas Dist. Corp.*, 73 Pa. PUC 552, 603-05 (1990) (*NFGD 1990*).

5. Due Consideration to the Interest of Consumers

As a matter of law, an increase in base rates involves a substantial property right, entitling ratepayers to notice and procedural due process. *McCloskey v. Pa. PUC*, 195 A.3d 1055, 1068 (Pa. Cmwlth. 2018) (*McCloskey 2018*) (citing *Barasch v. Pa. PUC*, 546 A.2d 1296, 1305-06 (Pa. Cmwlth. 1988) (*Barasch 1988*); citing also U.S. Const. amend. XIV, § 1).

Given that a utility's general rate increase request will substantially affect the interests of consumers, the Commission must "consistent with its other statutory responsibilities, take such action with due consideration to the interests of consumers." 71 P.S. § 309-5.

D. Statement of the Case

The OCA conducted a thorough investigation into Pike's request for an increase in annual operating revenues of \$1,874,000 per year or an overall increase of 11.6% in total electric distribution revenues. This rate increase will be paid for by approximately 5,350 customers, a majority of which – 4,210 or 79% – are residential customers. If the Company's proposed increase were granted as requested, residential customer would have seen a rate increase of \$15.52, or by approximately 11.6%, from \$134.29 to \$149.81 per month at a usage level of 674 kWh per month on a total bill basis, meaning that the cost of electric supply is included in the estimated bill impact.³ The Company's as-filed proposal would result in an overall increase to electric distribution rate

³ Excluding the cost of electric supply, under the Company's proposed increase, a customer using 674 kWh would see the delivery portion of their monthly bill increase from \$75.03 to \$90.55, or by 20.7%.

revenues for residential customers of 32.0%, including an increase to the residential customer charge of \$2.00 per month, or 22.7%, from \$8.80 to \$10.80. Additionally, Pike's rate filing requested approval to charge customers a monthly meter reading fee if they opt-out of having an Advanced Metering Infrastructure (AMI) electronic meter device installed on their property. The new AMI system would allow the company to collect meter data remotely. Pike intends to roll out the new system over an 18-month period and plans to allow customers to opt out of installation of the AMI system. Pike proposed a \$41.98 monthly charge to cover the cost of an employee performing manual meter reading if the customer declined installation of the AMI device. Pike also proposed to implement new disconnection and reconnection fees for its customers. Specifically, Pike proposed to charge customers \$50 for those who wish to voluntarily discontinue service and \$50 to those who wish to reconnect service if it was disconnected voluntarily.

Under the terms of the Settlement, a just and reasonable result is achieved. Pike would be authorized to receive an additional \$1,590,000 in operating revenues for distribution service, or a 9.8% increase over present operating revenues. This amount results in only an approximately 1.7% greater increase than the OCA's litigation position should receive an increase in annual distribution revenues no greater than \$1,334,200. The Settlement allocates the revenue increase on a black box basis. The Settling Parties also agreed to a \$0.75 increase to the residential customer charge, from \$8.80 to \$9.55, an 8.5% increase. The Settlement also contains several commitments from Pike to remove an amortized expense from rate base, improve its reliability reporting to the Commission, and permit customers to request relocation of a smart meter in lieu of paying a monthly analog meter reading fee.

II. SUMMARY OF ARGUMENT

For the reasons set forth fully in the OCA's Statement in Support of the Joint Petition, the Settlement should be adopted without modification. The Settlement is within the range of

reasonable results the Settling Parties would have achieved through litigation, is in the public interest, and results in just and reasonable rates.

The OSBA, the sole party contesting the Settlement, only presented evidence regarding the selection of an appropriate cost-of-service study, revenue allocation, and rate design. However, the revenue allocation and rate design included in the Settlement are within the range of the positions of the Settling Parties, as presented by their respective experts, and included in the Settlement on a “black box” basis. The revenue allocation and rate design terms included in the Settlement should be adopted without modification as in the public interest and because they result in just and reasonable rates.

Importantly, the Settlement was achieved through a series of negotiations and compromise among the Settling Parties. In the interest of achieving a full settlement, the Settling Parties agreed to a revenue requirement, revenue allocation, rate design, and other important consumer protection terms. The Settlement should be viewed as a comprehensive agreement of bargained-for exchanges which achieved a reasonable result based on the substantial evidence submitted by the parties to the proceeding. As a result, the Settlement should be viewed as a whole because it was reached through negotiations to achieve a full agreement between the Settling parties.

III. OVERALL POSITION ON RATE INCREASE

Overall

The OCA, I&E, and Pike made significant compromises to achieve the Settlement. The Settlement is a holistic document where each term was negotiated in the interests of achieving the final agreement. *See Popowsky 1996*, 683 A.2d at 961 (providing that the Commission is vested with significant discretion in determining what factors to consider when establishing just and reasonable rates). The OSBA’s request that the Commission reject the revenue allocation and rate design terms of the Settlement undermines the value of the agreement between the Settling parties

on revenue allocation and rate design in the context of achieving a comprehensive Settlement. Furthermore, the OSBA's position is unsupported by the design and operation of Pike's distribution system, based on – and fully supported by – the informed opinion of the OCA's expert witness. Therefore, the OCA respectfully requests that the Commission approve the Joint Petition in whole, without modification, because it is in the public interest, results in just and reasonable rates, and is within the range of reasonable results supported by the expert testimony submitted by the Settling Parties.

Given that the OSBA is contesting the Settlement in full, the OCA is compelled to brief its positions to preserve its rights in this case. As such, the remainder of this section and brief discuss the OCA's litigation positions in the context of the Settlement.

Revenue Requirement

The OCA submitted extensive testimony regarding Pike's proposed rate base balance, expenses, taxes, and claimed cost of capital. *See generally* OCA St. 1; OCA St. 2. I&E, similarly, submitted testimony on these issues. *See generally* I&E St. 1; I&E St. 2; *see also* I&E St. 3 at 5-15. The Company agreed with a significant number of the adjustments proposed by the OCA and I&E and included updates to its initial filing in its rebuttal testimony consistent with the recommendations of the OCA and I&E. *See* Pike St. 2-R at 5-18. Based on the testimony submitted, the Settling Parties established a range of reasonable results which the Commission might accept in the event the case proceeded to litigation. However, in the interests of regulatory certainty and conserving ratepayer resources, the OCA, I&E, and Pike agreed to settle to a revenue requirement increase within the range of reasonable results. *See* 52 Pa. Code § 69.401 (“the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully

litigated proceeding.”). The revenue requirement increase of \$1,590,000 contained in the Settlement balances Pike’s need for additional revenue – to, specifically, maintain distribution infrastructure replacement programs, potentially interconnect with PJM, as well as implement much-needed storm hardening, pole replacement, and reliability improvements – with those of its customers, who require safe, adequate, and reliable service be provided at the lowest reasonable cost. The OCA’s support for the revenue requirement established in the Settlement are provided in full in its Statement in Support.

Revenue Allocation and Rate Design

The OCA opposed the cost-of-service study included by Pike in its rate filing because the study included a customer component in classifying the costs of secondary distribution plant⁴, as well as the revenue allocation and rate design which resulted from the study. OCA St. 3 at 3-26; OCA St. 3R at 2-9; OCA St. 3SR at 2-13. The OSBA, by contrast, supported allocating revenue and designing rates consistent with the cost study provided by Pike. OCA St. 3R at 3-9.

In the interests of compromise, the Settlement does not identify a particular cost-of-service study methodology for the purposes of determining the revenue allocation and rate design under the Settlement term. Instead, the Settlement allocates revenue on a “black box” basis. In Pike’s most recent electric general rate increase request, the Commission determined that the black box nature of the revenue allocation and rate design agreed to in the non-unanimous settlement which resolved that proceeding did not warrant denial of the settlement. *Pa. PUC v. Pike Cty. Light & Power Co.*, R-2020-3022135 (Order entered July 21, 2021)⁵ (*Pike Elec. 2021*) at 35-36. Rather,

⁴ PCLP’s plant accounts 364-368 contain costs associated with the overhead and underground wires, supporting structures, and line transformers that connect the distribution system to meters and other installations at customer premises. PCLP witness Normand referred to plant in these accounts as low tension or secondary line facilities. OCA St. 3 at 7. This plant is referred to herein as “secondary distribution plant.”

⁵ Available at: <https://www.puc.pa.gov/pcdocs/1712221.docx/>.

the Commission held that the settlement should be approved because it was the result of “the Parties’ efforts at reaching a reasonable and just resolution of the allocation of revenues based upon agreement within the range of possible outcomes argued by the Parties and supported by their respective expert’s testimony.” *Id.* at 36. Similarly, in this proceeding, the revenue allocation and rate design included in the Settlement are within the range of reasonable outcomes which could have been expected from litigation as supported by the testimony of the OCA and the Company.

As a result, the Settlement’s revenue allocation and rate design are in the public interest and result in just and reasonable rates and should be accepted by the Commission without modification.

IV. RATE BASE

OCA witness Jennifer L. Rogers recommended a downward adjustment of \$2,070,498 to the Company’s proposed FTY rate base balance of \$39,033,539 for a final rate base balance of \$36,963,041. OCA St. 1 at 6-10. These adjustments result from the elimination of plant which will be placed into service after the close of the FTY, a commensurate adjustment to accumulated depreciation for the removal of this plant from the rate base balance, removing deferred income taxes which will accumulate following the close of the FTY, removing rate case expense from the rate base balance, removing deferred storm expenses from the rate base balance, and adjusting working capital based on adjustments associated with operating and depreciation expenses. *Id.* The Company accepted \$2,256,350 of downward adjustments proposed by Ms. Rogers, as well as those of I&E witnesses Getachew Bedasa and Eryan Sakaya, and agreed to a reduced rate base balance of \$36,777,189. Pike St. 2-R at 5-9, 18. At the Company’s requested cost of capital, Pike estimated that the accepted downward adjustments to the rate base balance result in a net decrease to revenue requirement of \$252,700. Pike St. 2-R at 18.

While no rate base balance is specified in the proposed Settlement,⁶ Pike's acceptance of several of the OCA's and I&E's downward adjustments, and the resultant impact on revenue requirement, demonstrates the reasonableness of the overall revenue requirement produced by the Settlement. Further, the Company's commitment in the Settlement to specifically account for costs associated with Winter Storm Riley as an expense amortized over five years, instead of including the deferred debit in rate base, ensures the Company's opportunity to recover the expense without providing the Company with recovery on the expense without specific Commission authorization. OCA St. 1 at 9. The OSBA presented no evidence or testimony on the rate base issues litigated by the OCA, Pike, and I&E. Therefore, the Settlement is in the public interest and the Commission should accept the revenue requirement provisions without modification for the reasons stated in this Brief as well as the OCA's Statement in Support of the Settlement, which is incorporated by reference as if fully stated herein.

V. REVENUES

The OCA proposed no adjustments to the Company's projected FTY revenues at present rates.

VI. EXPENSES

OCA witness Rogers presented testimony supporting \$170,380 in downwards adjustments to the Company's claimed operations and maintenance as well as depreciation and amortization expenses. OCA St. 1 at 11-22. Ms. Rogers' adjustments include reducing depreciation expense resulting from her proposed adjustments to rate base; eliminating a claimed non-recurring expense; reducing atypically high auditing, advertising, and minor storm expenses consistent with the Company's historical average expenses; removing the Company's proposed inflation escalation

⁶ The Settlement does provide for specified Protected and Non-Protected Tax Cuts and Jobs Act balances to be amortized as deductions to rate base. Settlement at ¶¶ 14-16.

adjustments; and removing the expense associated with a community organization's annual dinner. *Id.* Pike accepted most of Ms. Rogers' proposed adjustments, namely the reduction to depreciation expense, the elimination of the non-recurring expense and the inflation escalation adjustment for the non-recurring expense, as well as minor storm expense, in addition to accepting several adjustments proposed by I&E. Pike St. 2-R at 9-13, 18. As a result of these accepted adjustments, Pike calculated that its requested revenue requirement increase should be reduced by \$531,900. *Id.* at 18.

While no specific allowances for expenses are specified in the proposed Settlement, with the exception of the amortization of storm costs described *supra*, Pike's acceptance of the majority of the proposed downward adjustments, and the resultant impact on revenue requirement, demonstrates the reasonableness of the overall revenue requirement produced by the Settlement. The OSBA presented no evidence or testimony on the expense issues litigated by OCA, Pike, and I&E. Therefore, the Settlement is in the public interest and the Commission should accept the revenue requirement provisions without modification for the reasons stated in this Brief as well as the OCA's Statement in Support of the Settlement, which is incorporated by reference as if fully stated herein.

VII. TAXES

OCA witness Rogers proposed an upwards adjustment of \$455,692 to the Company's claimed state and federal income tax expenses at the OCA's proposed weighted cost of debt. OCA St. 1 at 23-24. At the Company's claimed weighted cost of debt, Ms. Rogers calculated an upwards adjustment of \$401,915. *Id.* The Company's used its unweighted, composite cost of debt, 7.21%, instead of its proposed weighted cost of debt of 3.44% when calculating its state and federal income tax obligations. *Id.* Because interest expense is calculated by multiplying the weighted cost of debt by the Company's rate base balance, the Company's claimed interest expense was

overstated in its filing. *Id.* After correcting the Company's calculated interest expense, Ms. Rogers increased the Company's operating income by the amount of the interest expense adjustment and used the adjusted operating income amount to calculate the Company's state and federal income tax. OCA St. 1, Sch. JLR-15. These adjustments resulted in an upwards adjustment to the Company's claimed revenue requirement at present rates. I&E made a similar adjustment. I&E St. 1 at 35-37.

Pike accepted the OCA's and I&E's adjustment and presented its own calculation in rebuttal testimony. Pike St. 2-R at 14-15. According to the Company, making this adjustment resulted in an increase to the requested revenue requirement of \$597,800 at the Company's claimed cost of capital. *Id.* at 18.

While no specific allowances for tax expenses are specified in the proposed Settlement, Pike's acceptance of the OCA's and I&E's proposed adjustments, and the resultant impact on revenue requirement, demonstrates the reasonableness of the overall revenue requirement produced by the Settlement. The OSBA presented no evidence or testimony on the tax expense issues litigated by OCA, Pike, and I&E. Therefore, the Settlement is in the public interest and the Commission should accept the revenue requirement provisions without modification for the reasons stated in this Brief as well as the OCA's Statement in Support of the Settlement, which is incorporated by reference as if fully stated herein.

VIII. RATE OF RETURN

The OCA presented significant testimony on Pike's requested cost of debt, cost of equity, and overall cost of capital for ratemaking purposes. Specifically, the OCA recommended that the Commission authorize a cost of long-term debt of 6.00%, short-term debt of 7.50%, a cost of equity of 9.40%, and a capital structure consisting of 40.81% long-term debt, 8.66% short-term debt, and 50.52% equity. OCA St. 2 at 7-8. While the OCA accepted the Company's claimed projected,

hypothetical capital structure, the OCA's recommendations resulted in a downward adjustment of 80 basis points to the cost of long-term debt, eight basis points to the cost of short-term debt, and 35 basis points to the cost of equity. *Id.*

Specifically, in its initial filing, Pike requested a cost of long-term debt of 6.80%, a cost of short-term debt of 7.58%, and a cost of equity of 9.75%. Pike Exh. E-2. Pike disagreed with the OCA's recommendations to authorize a lower cost of debt because Pike's management had the opportunity to refinance its long- and short-term debt multiple times to have a lower cost than claimed in the filing. OCA St. 2 at 27-29; Pike St. 2-R at 34-38.

Regarding the claimed cost of equity, in its initial filing, Pike did not present a return on equity (ROE) analysis to support its proposal. Rather, Pike rounded the Commission's authorized ROE for DSIC purposes of 9.90% to 9.75%, based on the Commission's Bureau of Technical Utility Services' (TUS') Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024. Pike St. 2 at 20-21 (*citing Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2024*, Docket No. M-2024-3051104 (Published Oct. 10, 2024) (*June 2024 QER*)⁷). The OCA requested all workpapers supporting Pike's ROE analysis from both Pike and from TUS, but Pike could not provide workpapers to support its requested ROE as a reasonable market-based calculation of an appropriate ROE for ratemaking purposes. *See* OCA Application for Issuance of Subpoena. The OCA was denied access to TUS' workpapers supporting the Commission's authorized ROE for DSIC purposes in the *June 2024 QER*. *See Pa. PUC v. Pike County Light & Power Co.*, Docket Nos. R-2024-3052357 *et al* (Order granting TUS Petition for Interlocutory Review and Answer to Material Question entered May 9, 2025).⁸ In denying the OCA's request for issuance of a subpoena to produce the workpapers supporting the

⁷ Available at: <https://www.puc.pa.gov/pdocs/1852340.pdf>.

⁸ Available at: <https://www.puc.pa.gov/pdocs/1878273.pdf>.

Commission's authorized ROE for DSIC purposes in the *June 2024 QER*, the Commission strongly reiterated its long-standing position that the authorized ROE for DSIC purposes is not relevant to determining an appropriate ROE for ratemaking purposes during a Section 1308(d) rate increase request proceeding. *Id.* at 28.

For its ROE recommendation, the OCA presented the testimony of Maureen L. Reno, who provided a recommended ROE of 9.40% for Pike based on Discount Cash Flow (DCF) and Capital Asset Pricing Model (CAPM) analyses. OCA St. 2 at 41-55. Ms. Reno's recommendation was based on the midpoint of her DCF analysis, which utilized the same proxy group as TUS did in the *June 2024 QER* relied upon by Pike, and produced a range of results from 8.44% to 10.34%. *Id.* at 53. Ms. Reno's CAPM analysis presented a range of results from 8.20% to 11.44%, with a midpoint of 9.82%, and, due to the proximity of the midpoints between the DCF and CAPM results, demonstrated that the results of Ms. Reno's DCF analysis are reasonable and her overall recommendation of 9.40% is consistent with market-based expectations of a reasonable ROE. *Id.* The ROE testimony and recommendation presented by the OCA is consistent with the Commission's most recent orders establishing an ROE for an electric distribution company. *Pa. PUC v. Wellsboro Elec. Co.*, R-2019-3008208 (Order entered April 29, 2020)⁹ (*Wellsboro 2020*) at 80 ("the Company's cost of equity in this proceeding should primarily be based upon the use of the DCF methodology and that the results of the CAPM analysis should be used as a comparison to the DCF results"); *Pa. PUC v. Citizens' Elec. Co. of Lewisburg, PA*, R-2019-3008212 (Order entered April 27, 2020)¹⁰ (*Citizens' 2020*) at 91.

While Pike presented rebuttal testimony addressing the testimony of Ms. Reno, Pike's witness did not present an alternative or updated recommendation based on an analysis of market

⁹ Available at: <https://www.puc.pa.gov/pdocs/1661708.docx>.

¹⁰ Available at: <https://www.puc.pa.gov/pdocs/1661392.docx>.

data. *See generally* Pike St. 4-R. The OSBA, similarly, presented no analysis supporting a recommendation for an appropriate ROE for ratemaking purposes.

A substantial record was created by the submission of testimony by the OCA and I&E as to an appropriate cost of capital for ratemaking purposes. Though the Settlement does not establish a specific cost of capital for ratemaking purposes, this substantial record informed the revenue requirement increase agreed upon in the Settlement, which should be accepted as in the public interest and resulting in just and reasonable rates because it is within the range of reasonable results produced by the testimony in this proceeding.

IX. RATE STRUCTURE AND RATE DESIGN

The OCA respectfully requests that the Commission adopt the revenue allocation and rate design included in the Settlement.

The Commission has broad discretion in determining whether rates are reasonable, in consideration of the entirety of the Settlement and the significant compromises made by the parties to agree to the Settlement, the rates produced in the Settlement should be accepted as just and reasonable. *See Popowsky 1996*, 683 A.2d at 961. The Settlement provides benefit to ratepayers with an overall reduction to the rate increase originally sought by Pike and limits the increase to an amount necessary for the Company to provide safe and reliable service, in addition to several other commitments which benefit ratepayers. *See Pike Elec. 2021* at 35. Even though the Settlement revenue allocation and rate design are a black box compromise, because they are within the range of possible outcomes supported by the OCA and Pike and are supported by the expert testimony submitted by those parties, the Settlement results in just and reasonable rates. *Id.* at 36. Therefore, the OCA respectfully requests that the Commission approve the Settlement without modification.

A. Significant testimony was submitted in this proceeding regarding an appropriate cost of service study methodology to use for the purposes of revenue allocation and rate design.

The OSBA accepted the cost-of-service study (COSS) submitted by Pike in its initial filing without modification and utilized Pike’s COSS for the purposes of its revenue allocation recommendation. OSBA St. 1 at 8. The OCA disagreed with Pike and OSBA that costs for secondary distribution plant are customer-related. Rather, the OCA argued in testimony that costs for secondary distribution plant are appropriately classified as demand-related.

The Commission has previously held that the appropriate methodology for a COSS is dependent on the cost causation principles and design of a utility’s distribution system. *Cf. Pa. PUC v. PECO Energy Co.*, Docket No. R-2020-3018929 (Order entered June 22, 2021)¹¹ (*PECO Gas 2020*) at 230-31 (“the best-suited [allocated class cost-of-service study] may depend on the circumstances of the situation on a case-by-case basis.”). In other words, even though the Commission has previously accepted the minimum system method for the allocation of the costs of secondary distribution plant for electric utilities, the minimum system method should not always be accepted where the specifics of the design, planning, and operation of a distribution system do not support the inclusion of a customer component in classifying costs related to secondary distribution plant. *Compare Citizens’ 2020* at 123 and *Wellsboro 2020* at 102 and *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2017-2640058 (Order entered October 25, 2018)¹² (*UGI Elec. 2018*) at 160 with *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2022-3031211 (Order entered Dec. 8, 2022)¹³ (“We note that even in cases in which the revenue allocation

¹¹ Available at: <https://www.puc.pa.gov/pcdocs/1708475.docx>.

¹² Available at: <https://www.puc.pa.gov/pcdocs/1591254.docx>.

¹³ Available at: <https://www.puc.pa.gov/pcdocs/1767004.pdf/>.

methodology is litigated, a determination regarding which ACCOSS should be used should be determined on a case-by-case basis.”).

In order to investigate whether the number of customers plays a role in Pike’s system planning, design, and operating standards and procedures applicable to secondary distribution plant, the OCA requested Pike to provide all documents relevant to such standards and procedures.

OCA St. 3 at 8. Specifically, Dr. Pavlovic provided:

[Pike]’s foundational assumption in using the minimum-size method is that the number of customers on the distribution system causes at least a portion of the costs recorded in plant accounts 364-368 [the Federal Energy Regulatory Commission accounts for secondary distribution plant]. With [Pike]’s planning, design, and operating standards and procedures for plant accounts 364-368, it is possible to confirm or disconfirm [Pike]’s assumption that customers are the cause of a portion of the costs of the facilities in its plant accounts 364-368. If the number of customers is not a factor in the planning, design, and operation of [Pike]’s account 364-368 distribution assets, then there is in fact no support for [Pike]’s application of minimum-size classification of the costs in plant accounts 364-368. Based on my inspection of [Pike]’s response to OCA IR-8-4, the response clearly demonstrates that the number of customers on [Pike] distribution system plays no role in the design, planning, and operation of [Pike]’s plant recorded in plant accounts 364-368. Therefore, the number of customers on [Pike]’s system is not a cause of any portion of the facilities the costs of which are recorded in accounts 364-368.

Id. at 9.

OSBA witness Ewen opined that the documents do not show that “the demand for energy is the sole cause or driver of costs associated with secondary voltage distribution plant.” OSBA St. 1-R at 3. Rather, Mr. Ewen extrapolated from Pike’s secondary distribution plant design, planning, and operation documents that both customer count and demand are cost drivers associated with secondary distribution plant. *Id.* However, in Dr. Pavlovic’s examination of the documents, they “clearly demonstrate that the number of customers on PCLP distribution system plays no role in the design, planning, and operation of PCLP’s plant recorded in plant accounts 364-368.” OCA St. 3SR at 8. Notably, Pike’s witness who sponsored the Company’s COSS did not rebut Dr. Pavlovic’s interpretation of Pike’s system design and operation documents. Pike St. 1-R at 7-8.

Additionally, OSBA witness Ewen's supposition that it is "less costly per unit of demand" to service commercial customers compared to residential customers due to a higher density of commercial customers in Pike's system is unsupported by evidence and thoroughly rebutted by Dr. Pavlovic's observation that Pike's system contains both higher and lower densities of commercial *as well as* residential customers. OCA St. 3SR at 7-8. Because Pike's standards and procedures do not suggest that it incurs costs for secondary distribution plant based on the number of customers connected to its system, then costs for secondary distribution plant on Pike's system are likely demand-related. *See* OCA St. 1 at 12-13 (describing how the National Association of Regulatory Utility Commissioners' Electric Utility Cost Allocation Manual classifies distribution customer costs); *see also* Pike St. 1-R at 6 ("It is necessary to apply expert judgment that reflects a number of factors including the nature of services being provided, the demographics of its customers, the design of the distribution facilities and guidance from the regulatory commission concerning class revenue targets and allocation approaches.").

In the expert judgment of the OCA's witness, supported by his review of Pike's distribution system design and operation documents, Pike's secondary distribution system plant should not be classified as customer-related. OCA St. 3 at 11-13. As stated by Dr. Pavlovic, "the costs of the distribution lines and line transformers for a given system will be the same if the system serves X number of customers in an area of a given size or 2X number of customers in an area of identical size." *Id.* at 11. For these reasons, OCA witness Pavlovic recommended that the Commission reject Pike's classification of secondary distribution plant costs as customer-related, classify those costs as 100% demand-related, and otherwise allocate Pike's revenue increase on the basis of the COSS presented in the Company's initial filing.

While, the selection of an appropriate COSS methodology is critical, as the COSS forms the basis for revenue allocation once the cost of service has been functionalized, classified, and assigned to customer classes based on the functionalized and classified costs, the Commission is not required to accept a particular COSS methodology in the event of a settlement which allocates revenue on a black box basis. *Pike Elec. 2021* at 35. The revenue allocation and rate design provided in the Settlement are within the range of results which could be reasonably drawn from the COSSs submitted by Pike and the OCA and by the expert testimony supporting the submitted COSSs. Therefore, OSBA's arguments in favor of a revenue allocation which is based on an unmodified version of Pike's minimum-system COSS should be rejected, and the Commission should accept the revenue allocation proposed in the Settlement as the result of a reasonable compromise in the context of achieving a full settlement, in the public interest, and resulting in just and reasonable rates.

B. The revenue allocation included in the Settlement is based on a reasonable compromise between the Settling Parties.

The Settlement revenue allocation is informed by the joint positions of OCA and Pike based on litigation surrounding the appropriate COSS methodology to use.

It is the role of the Commission to determine inter-class rates, which involves the assignment of the revenue requirement between the various customer classes. *See UGI Elec. 2018* at 165. Revenue allocation should seek to eliminate class cross-subsidization and move customer classes towards their cost of service. *Lloyd*, 904 A.2d at 1020. However, the Commission is also charged with balancing public policy considerations such as gradualism, incentivizing conservation, and ensuring that rates are affordable for all customers when allocating revenues between classes. *Columbia 2020* at 46-47.

One way to measure this movement towards cost causation is by examining the relative rates of return (RROR) of Pike’s customer classes. Dr. Pavlovic describes a relative rate of return as:

[T]he commonly used metric by which fair cost apportionment is measured and evaluated...A class relative rate of return of 1.00 indicates that the class is earning the overall rate of return. A class relative rate of return less than 1.00 indicates that the class is underearning or under recovering its cost of service, i.e., the revenue generated by rates is not covering the full cost of service to the class. A class relative rate of return greater than 1.00 indicates that the class is overearning or over recovering its cost of service, i.e., the revenue generated by rates is more than covering the full cost of service to the class.

OCA St. 3 at 15. The goal of revenue allocation is to move each class’s relative rate of return closer to one. *Id.* at 16. Dr. Pavlovic provided the following data comparing the RROR for Pike’s customer classes with and without a customer component for the allocation of secondary distribution plant costs:

Comparison of RROR for Pike’s customer classes before and after revenue is allocated in Pike’s minimum-size COSS with and without a customer component to secondary distribution plant at Pike’s filed rate increase.				
Customer Class	Present Rates – Customer Component	Proposed Rates – Pike Allocation	Present Rates – No Customer Component	Proposed Rates – OCA Allocation
SC1 Residential	0.57	0.56	0.80	0.80
SC1 Residential Space/Water Heating	0.95	1.03	0.98	0.98
SC2-S Secondary	1.58	1.60	1.08	1.08
SC2-P Primary	1.57	1.65	1.57	1.57
SC3 Municipal Lighting	0.43	0.12	1.61	1.61
SC4 Private Area Lighting	0.07	-0.25	0.80	0.80
Total	1.00	1.00	1.00	1.00

OCA Exh. KRP-2.

The below table summarizes the revenue allocation positions of the OCA, Pike, and OSBA, as well as the ultimate Settlement revenue allocation:

Comparison of Class Percent Distribution of Revenue Requirement Increase				
Customer Class	OCA^[1]	Settlement^[2]	Pike^[3]	OSBA^[4]
SC1 Residential	39.77%	39.77%	44.11%	46.01%
SC1 Residential Space/Water Heating	8.98%	8.98%	9.94%	9.15%
SC2-S Secondary	41.92%	41.92%	36.95%	35.94%
SC2-P Primary	7.03%	7.03%	6.58%	6.40%
SC3 Municipal Lighting	1.59%	1.59%	1.68%	1.74%
SC4 Private Area Lighting	0.72%	0.72%	0.74%	0.76%
Total	100.00%	100.00%	100.00%	100.00%
^[1] OCA St. 3R at 7 ^[2] Settlement at ¶ 9 ^[3] Pike Exh. E-8 at 1-2 ^[4] OCA St. 3R at 5				

As compared to the revenue allocation supported by the OSBA, the Settlement revenue allocation more accurately reflects the particularities of Pike’s distribution system design and operation – as described *supra* – as well as gradualism.

By contrast, the OSBA’s proposed revenue allocation does not take gradualism into account in allocating revenue among Pike’s customer classes. The Commission must balance cost and non-cost considerations when allocating a revenue increase between the customer classes. *Columbia 2020* at 46-47. The Commission has previously stated “although there are no definitive rules for determining what kind of rate increase would violate the principle of gradualism, one common metric that has been used by experts in the Commonwealth has been the ‘1.5 times’ rule, wherein the maximum average rate increase for any particular class should not exceed 1.5 times

the system average increase.” *Citizens’ 2020* at 137. The OSBA’s proposal provides an increase of over 1.5 times the system average increase to SC1 Residential customers, SC3 Municipal Lighting customers, and SC4 Private Area Lighting customers. OCA St. 3R at 7. As stated by Dr. Pavlovic, “OSBA’[s] proposed revenue allocation clearly selectively violates the ratemaking principle of gradualism regarding the residential and lighting classes to the benefit of the commercial classes.” *Id.* at 8.

By contrast, the Settlement revenue allocation stabilizes the amount customers are currently contributing towards their cost of service, while considering gradualism. Settlement at ¶ 9. Furthermore, because Pike anticipates adding approximately 150 new residential customers during the FTY and approximately 30 new commercial customers during the FTY, it is likely that the cost contributory relationships between Pike’s customer classes will change under new rates and these classes will make greater movement towards an RROR of 1.00 than anticipated based on Pike’s historical data alone. *See* Pike Exh. E-8 at 22; Pike Exh. E-6, Sch. PMN-5-E at 1. As a result, the revenue allocation provided in the Settlement achieves an appropriate balance between the revenue allocation positions of the OCA and Pike without moving classes further away from their cost of service, while considering gradualism.

The OSBA’s opposition to the Settlement revenue allocation is not supported by the design and operation of Pike’s distribution system or equitable principles such as gradualism. Therefore, the OSBA’s revenue allocation proposal should be rejected by the Commission. The Commission should accept the revenue allocation included in the Settlement because it is the result of compromise between the OCA and Pike in the interest of reaching a comprehensive settlement, within the range of reasonable results of litigation, in the public interest, resulting in just and reasonable rates. *Pike Elec. 2021* at 35 (*citing Popowsky 1996*).

C. The rate design included in the Settlement is the just and reasonable result of the agreed-upon revenue allocation.

As part of the Settlement, the OCA, I&E, and Pike specifically agreed to an increase of \$0.75 for the residential customer charge, from \$8.80 to \$9.55. Settlement at ¶ 9. Pike initially proposed a residential customer charge of \$10.80, a 22.7% increase over present rates. OCA St. 3 at 22. The OCA opposed this increase, with OCA witness Pavlovic arguing:

A fixed monthly customer charge sends no real actionable price signal to residential customers. No residential customer chooses either to take service or to take a given amount of service based on the customer charge. Thus, the ratemaking principle of efficiency provides no basis to set the customer charge at one level or another. On the other hand, if the residential customer charge is left unchanged, the increased revenue approved in this proceeding will be recovered through the volumetric distribution charge, where it will definitely send a real actionable price signal regarding conservation and customers' control over their monthly bills. Placing all of the increase in the volumetric distribution charge will provide residential customers with both (1) an increased incentive to engage in conservation and (2) the ability to exercise control over a larger portion of their monthly electric distribution bill.

Id. at 25-26. The Settlement represents a reasonable compromise on the residential customer charge. Increasing the residential customer charge by 8.5% while increasing the overall revenue from the residential customer class by 21.4% means that a greater share of a residential customer's overall bill will be occupied by volumetric rates instead of the fixed monthly customer charge.

Specifically, at 674 kWh, the customer charge represents approximately 11.7% of the delivery portion of a customer's bill at present rates; under the Settlement rates, the customer charge will represent approximately 11.5% of a customer's bill, instead of 11.9% as proposed in Pike's initial filing.¹⁴ Pike Exh. E-8 at 6. By maintaining the relationship between the customer charge at present rates and at the rate increase authorized in the Settlement, residential customers

¹⁴ Inclusive of the cost of electric supply, the customer charge occupies 6.6% of a residential customer's monthly bill at a usage level of 674 kWh, would have occupied 6.7% of a customer's bill under Pike's proposed rates, and will occupy 6.5% of a customer's bill if the Settlement is approved without modification.

will receive a more accurate price signal from their monthly bill, see a greater incentive to conserve and be efficient with their natural gas usage, and have overall greater control over their bills. OCA St. 3 at 26. As a result, the rate design for residential customers is an improvement over the rate design proposed by Pike in the filing, is in the public interest, and would result in just and reasonable rates. The OSBA presented no evidence regarding the residential rate design and the Commission should accept the Settlement residential rate design without modification.

D. The Settlement revenue allocation and rate design results in just and reasonable rates.

The revenue allocation and rate design included in the Settlement are within the range of reasonable results from litigation and are supported by substantial evidence. The Settlement was the result of significant compromise between the Settling Parties as to the revenue requirement, revenue allocation and rate design, and other terms designed to protect consumers and is a comprehensive document where all portions were subject to the give-and-take of extensive negotiation. As a result, the Commission should, in its discretion, approve the Settlement revenue allocation and rate design. *See Pike Elec. 2021* at 35.

X. CONCLUSION

In summary, the OCA respectfully requests the Commission approve the Joint Petition for Non-Unanimous Settlement and adopt the Non-Unanimous Settlement without modification. The Settlement is the result of significant compromise between the OCA, I&E, and the Company, is within the range of reasonable results which the parties could expect from litigation, is in the public interest, and would result in just and reasonable rates.

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

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

Date: June 9, 2025

Counsel for:
Darryl A. Lawrence
Acting Consumer Advocate

Appendix A

**LIST OF EVIDENCE ADMITTED INTO THE EVIDENTIARY RECORD BY THE
OFFICE OF CONSUMER ADVOCATE**

The Office of Consumer Advocate submitted the following evidence into the evidentiary record by stipulation, which was approved in the Order of Administrative Law Judges Alphonso Arnold III and Marta Guhl on May 29, 2025.

DIRECT TESTIMONY

- OCA Statement 1: Direct Testimony of Jennifer L. Rogers consisting of 24 pages of testimony, Appendix A, and Schedules JLR-1 through JLR-18 along with a signed verification of Jennifer L. Rogers.
- OCA Statement 2: Direct Testimony of Maureen L. Reno consisting of 56 pages of testimony, Appendix A, and Exhibits MLR-1 through MLR-6 along with a signed verification of Maureen L. Reno.
- OCA Statement 3: Direct Testimony of Karl R. Pavlovic consisting of 26 pages of testimony and Exhibits KRP-1 through KRP-3 along with a signed verification of Karl R. Pavlovic.

REBUTTAL TESTIMONY

- OCA Statement 3R: Rebuttal Testimony of Karl R. Pavlovic consisting of 9 pages of testimony along with a signed verification of Karl R. Pavlovic.

SURREBUTTAL TESTIMONY

- OCA Statement 3SR: Surrebuttal Testimony of Karl R. Pavlovic consisting of 13 pages of testimony along with a signed verification of Karl R. Pavlovic.

ADDITIONAL EVIDENCE

- OCA Hearing Exh. 1: List of Evidence to be Admitted into the Evidentiary Record by the Office of Consumer Advocate.