

COMMONWEALTH OF PENNSYLVANIA



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June 9, 2025

Via Electronic Mail

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Administrative Law Judge Alphonso Arnold III (alphonarno@pa.gov)
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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Re: Pennsylvania Public Utility Commission
v.
Pike County Light & Power Company -
Gas
Docket No. R-2024-3052357

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,

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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-2024-3052357
	:	
Pike County Light & Power Company - Gas	:	
	:	

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.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

MAIN BRIEF
OF THE
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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 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 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 December 30, 2024, Pike filed Supplement No. 127 to Tariff Gas – Pa. P.U.C. No. 6, with the Commission, to become effective on February 28, 2025. The Company proposed to increase rates to produce additional annual operating revenues of \$905,900 per year or an overall increase of 35.8% in total gas distribution revenues based upon a future test year ending September 30, 2025.

On January 17, 2025, Pike filed Supplement No. 128 to Tariff Gas – Pa. P.U.C. No. 6 with the Commission to voluntarily postpone the effective date of the tariff filing to March 15, 2025. Pike filed the suspension postponement so that the gas tariff case can run concurrently with a request for increase in rates from Pike’s electricity customers (see Docket No. R-2024-3052359).

On January 8, 2025, the OCA filed its Formal Complaint and Public Statement. On January 10, 2025, the OSBA filed a Notice of Appearance. On January 16, 2025, OSBA filed a Formal Complaint. On January 10, 2025, I&E filed a Notice of Appearance.

On January 23, 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 electric 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/pdocs/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 \$905,900 per year or an overall increase of 35.8% in total gas distribution revenues. This rate increase will be paid for by approximately 1,420 customers, a majority of which – 1,334 or 94% – are residential customers. If the Company's proposed increase were granted as requested, residential customer would have seen a rate increase of \$60.30, or by approximately 43.5%, from \$135.78 to \$196.08 per month at a usage level of 80 CCF per month, inclusive of the cost of natural gas.³ The Company's as-filed proposal would result in an overall increase to gas

³ Excluding the cost of purchased gas, under the Company's proposed increase, a customer using 80 CCF would see the delivery portion of their monthly bill increase from \$65.94 to \$126.24, or by 91.4%.

distribution rates for residential customers of 99.8%, including an increase to the residential customer charge of \$1.50, or 18.8%, from \$8.00 to \$9.50.

Additionally, the Company proposed a Weather Normalization Adjustment (WNA) which would apply to residential customers in the billing months of October through May. The proposed WNA would increase customers' bills during warmer-than-normal months and would decrease customers' bills during colder-than-normal months. OCA St. 3 at 24. If the WNA had been in effect during the 2023-2024 heating season, it would have collected an additional \$76,715.96 from Pike's residential customers, according to the Company's estimates, charging residential customers for approximately 14% more natural gas than those customers used during the heating season. *Id.* at 28.

Under the terms of the Settlement, a just and reasonable result is achieved. Pike would be authorized to receive an additional \$825,000 in operating revenues for distribution service. This increase is only approximately 8.2% greater than the OCA's litigation position of a \$762,400 revenue increase. The Settlement includes a phase-in of the agreed-upon rate increase, whereby Pike will be authorized to collect an additional \$495,000 in distribution revenues during the first year of new rates and will be authorized to collect an additional \$330,000 in distribution revenues during the second year of new rates.

The Settlement allocates the revenue increase such that all of Pike's customer classes will receive the same percentage increase. The Settling Parties also agreed to a \$0.75 increase to the residential customer charge, from \$8.00 to \$8.75. Based on the rates agreed upon in the Settlement, a residential customer using 80 CCF will see an increase in their monthly bill from \$65.94 to \$91.85, or 39.3%, for the first year of new effective rates for delivery charges, excluding the cost of purchased gas. For the second year of new effective rates for delivery charges, excluding the

cost of purchased gas, a residential customer using 80 CCF will see an increase in their monthly bill from \$91.85 to \$111.29, or 21.2%.⁴ Under the terms of the Settlement, Pike withdraws its request to implement a WNA without prejudice towards a future proposal of a similar mechanism.

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 reflects 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 narrow issues of the selection of an appropriate cost-of-service study, revenue allocation, and rate design. The OSBA advocated for a cost-of-service study which inappropriately includes a customer component to classifying the costs of distribution mains. Contradicting the OSBA's position to include a customer component for classifying distribution mains costs are the Commission's precedent, the design and operation of Pike's distribution system, and fundamental cost causation principles. The OSBA's flawed cost-of-service study, therefore, should be rejected as unsupported. Because the OSBA based its revenue allocation and rate design recommendations on the results of a flawed cost-of-service study, these recommendations should also be rejected.

The Commission has recently rejected attempts to include a customer component in the classification of the costs of distribution mains, consistent with its long-standing position that the costs of distribution mains are appropriately classified as demand-related, instead of customer-related. *Columbia 2020* at 131; *Pa. PUC v. Phila. Gas Works*, Docket No. R-2023-3037933 (Order

⁴ Inclusive of the cost of purchased gas, a residential customer using 80 CCF per month will see an increase of their monthly bill from \$127.00 to \$151.92, or 20.4%, during the first year of new effective rates. During the second year of new effective rates, a residential customer using 80 CCF per month will see an increase of their monthly bill from \$151.92 to \$172.35, or 12.7%, inclusive of the cost of purchased gas.

entered Nov. 9, 2023)⁵ (PGW 2023) at 137. Furthermore, the OCA’s investigation into the design, planning, and operation of Pike’s distribution system reveal that customer count does not play a role in designing, planning, or operating the distribution system. OCA St. 3 at 8-9. Fundamental cost causation principles also indicate that the costs associated with distribution mains upstream of a customer are not affected by the customer’s connection to the distribution system; rather, it is the demands that the customer places on the system that are associated with the costs of distribution mains, meaning that the costs associated with distribution mains are properly classified as demand-related, and not customer-related. *Id.* at 9-13.

The revenue allocation and rate design agreed upon in the Settlement are informed by the cost-of-service study recommendations presented by the OCA and I&E, which recommended the removal of the customer component from the classification of the costs of distribution mains given that such costs are demand-related. The revenue allocation and rate design included in the Settlement are fully supported by the Commission’s precedent, more accurately reflect the design and operation of Pike’s distribution system, and are more in line with fundamental cost causation principles than the recommendation of the OSBA. As a result, the revenue allocation and rate design included in the Settlement should be adopted without modification as being in the public interest and because they would result in just and reasonable rates.

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. The OSBA’s request that the Commission reject the revenue allocation and rate

⁵ Available at: <https://www.puc.pa.gov/pdocs/1804829.pdf>.

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 applicable Commission precedent, the design and operation of Pike's distribution system, and fundamental cost causation principles. Therefore, the OCA respectfully requests that the Commission approve the Joint Petition in whole, without modification, because it is in the public interest and results in just and reasonable rates.

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 the remainder of the 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 extensive testimony on these issues. *See generally* I&E St. 1; I&E St. 2; *see also* I&E St. 3 at 13-25. 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. *See* Pike St. 2-R at 5-16. 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. The revenue requirement increase contained in the Settlement of \$825,000 balances Pike's need for additional revenue to maintain pipe replacement programs and provide adequate and reliable service with those of its customers, who require such 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 and I&E both 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 distribution mains, as well as the revenue allocation and rate design which resulted from the study. OCA St. 3 at 6-20; OCA St. 3R at 3-9; OCA St. 3SR at 2-11; I&E St. 3 at 25-33; I&E St. 3SR at 10-15. The OSBA, by contrast, supported allocating revenue and designing rates consistent with the cost study provided by Pike. OCA St. 3R at 3-9. As indicated in the summary of argument and further argued below, because the OSBA relied on a cost-of-service study to make its recommendations for revenue allocation and rate design which classifies a portion of the costs of distribution mains as customer-related, its revenue allocation and rate design proposals should be rejected. OCA St. 3R at 3-9. Instead, the revenue allocation and rate design proposals contained in the Settlement should be adopted, as, not only do they reduce the classification of costs associated with distribution mains, they also contain a minimal increase to the residential customer charge and a two-year phase-in of the significant rate increase contained in the Settlement. Settlement at ¶¶ 4-10. The Settlement's revenue allocation and rate design are in the public interest and result in just and reasonable rates and, therefore, should be accepted by the Commission without modification.

Weather Normalization Adjustment

The OCA and I&E both strongly opposed Pike's request to implement a Weather Normalization Adjustment (WNA) mechanism. OCA St. 3 at 23-30; OCA St. 3SR at 11-14; I&E St. 3 at 3-13; I&E St. 3-SR at 2-7. As part of the Settlement, Pike agreed to withdraw its request to implement a WNA without prejudice as to future requests to implement a similar mechanism to

that proposed. Settlement at ¶ 11. Because WNAs, both Pike's proposed WNA specifically and WNA mechanisms generally, do not result in just and reasonable rates, Pike's withdrawal of its WNA proposal is in the public interest.

IV. RATE BASE

OCA witness Jennifer L. Rogers recommended a downward adjustment of \$1,167,581 to the Company's proposed FTY rate base balance of \$10,679,042 for a final rate base balance of \$9,511,461. OCA St. 1 at 6-10. These adjustments resulted 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, and adjusting working capital based on adjustments associated with operating and depreciation expenses. *Id.* The Company accepted \$1,141,370 of downward adjustments proposed by Ms. Rogers as well as I&E witnesses Zachari Walker and Ethan Cline and agreed to a reduced rate base balance of \$9,537,672. Pike St. 2-R at 5-9, 16. 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 \$118,600. Pike St. 2-R at 16.

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. The OSBA presented no evidence or testimony on the rate base 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

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 ¶¶ 14-15.

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 \$80,599 in downwards adjustments to the Company's claimed operations and maintenance as well as depreciation and amortization expenses. OCA St. 1 at 10-18. Ms. Rogers' adjustments included reducing depreciation expense resulting from her proposed adjustments to rate base, eliminating a claimed non-recurring expense, reducing atypically high auditing and advertising expenses consistent with the Company's historical average expenses, and removing the Company's proposed inflation escalation adjustments. *Id.* Pike accepted \$71,079 of Ms. Rogers' proposed adjustments, namely the reduction to depreciation expense as well as the elimination of the non-recurring expense and the inflation escalation adjustment for the non-recurring expense. Pike St. 2-R at 10-12, 16. As a result of these accepted adjustments, Pike calculated that its requested revenue requirement increase should be reduced by \$71,300. *Id.* at 16.

While no specific allowances for expenses are specified in the proposed Settlement, 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 \$130,021 to the Company's claimed state and federal income tax expenses at the OCA's proposed weighted cost of debt. OCA St. 1 at 19. At the Company's claimed weighted cost of debt, Ms. Rogers calculated an upwards adjustment of \$110,250. *Id.* The Company's used its unweighted, composite cost of debt, 7.21%, instead of its proposed weighted cost of debt of 3.43% 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 27-29.

Pike accepted the OCA's and I&E's adjustment and presented its own calculation in rebuttal testimony. Pike St. 2-R at 12-13. According to the Company, making this adjustment resulted in an increase of the requested revenue requirement of \$151,900. *Id.* at 16.

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 9.30%, and a capital structure consisting of 40.72% long-term debt, 8.64% short-term debt, and 50.63% equity. OCA St. 2 at 8. While the OCA accepted the Company's claimed projected, hypothetical capital structure, the OCA's recommendations result 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 90 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 10.20%. Pike Exh. G-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 26-28; Pike St. 2-R at 28-31.

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 10.15% to 10.20%, 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 23 (*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 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.

The OCA presented the testimony of Maureen L. Reno, who provided a recommended ROE of 9.30% for Pike based on Discount Cash Flow (DCF) and Capital Asset Pricing Model (CAPM) analyses. OCA St. 2 at 40-51. Ms. Reno’s recommendation is based on the midpoint of her DCF analysis, which utilized the same proxy group as TUS did in the *June 2024 QER*, and produced a range of results from 8.71% to 9.84%. *Id.* at 53. Ms. Reno’s CAPM analysis presented a range of results from 8.06% to 11.24%, with a midpoint of 9.65%, and, due to the proximity of the midpoints between the DCF and CAPM results, demonstrates that the results of Ms. Reno’s DCF analysis are reasonable and her overall recommendation of 9.30% 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 a

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

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

natural gas distribution company. *Columbia 2020* at 131 (“we agree with the finding of the ALJ that 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. PECO Energy Co. – Gas Division*, Docket No. R-2020-3018929 (Order entered June 22, 2021) (*PECO Gas 2020*)⁹ at 161 (affirming the Commission’s use of the DCF and CAPM methodologies in *Columbia 2020*). I&E used a similar methodology to the OCA, which resulted in a recommended ROE of 9.66%. I&E St. 2 at 7.

While Pike presented rebuttal testimony addressing the testimony of Ms. Reno and I&E witness Keller, Pike’s witness did not present an alternative or updated recommendation based on an analysis of market 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 Settlement revenue allocation and rate design are informed by the OCA’s modifications to the cost-of-service study (COSS) presented by Pike. Pike’s COSS inappropriately classified the costs associated with distribution mains as customer-related, in

⁹ Available at: <https://www.puc.pa.gov/pdocs/1708475.docx>.

contravention of long-standing Commission precedent rejecting any classification of distribution main costs as customer-related. *Columbia 2020* at 213-18. The OSBA supported Pike's COSS, including the classification of distribution mains costs as customer-related. *See* OSBA St. 1; *see also* OSBA St. 1-R. However, given that the OSBA's position on classifying distribution main costs as customer-related is unsupported by the Commission's precedent, and that position is the basis of the OSBA's proposed revenue allocation and rate design, the OSBA's position on revenue allocation and rate design should be rejected and the revenue allocation and rate design included in the Settlement should be accepted without modification as just and reasonable and in the public interest.

A. The OSBA's recommended cost-of-service study is unsupported by Commission precedent, the design and operation of Pike's distribution system, or fundamental principles of cost causation.

The OSBA accepted the COSS submitted by Pike in its initial filing without modification and utilized Pike's flawed COSS for the purposes of its revenue allocation recommendation. OSBA St. 1 at 7. However, the OSBA's position is unsupported by the Commission's precedent, Pike's own gas distribution system planning and design, and by fundamental principles of cost causation, as was explained fully by OCA witness Karl R. Pavlovic in his direct, rebuttal, and surrebuttal testimonies, as well as by I&E witness Ethan Kline in his direct and surrebuttal testimonies. OCA St. 3 at 6-15; OCA St. 3R at 3-5; OCA St. 3SR at 6-8; I&E St. 3 at 25-29; I&E St. 3SR at 10-14. Therefore, the OSBA's position should be rejected and the revenue allocation proposed in the Settlement should be adopted as resulting in just and reasonable rates and in the public interest.

OCA witness Pavlovic described Pike's COSS as follows:

The [COSS] follows a four-step procedure of (1) functionalization of costs, (2) classification of functionalized costs as demand-related, commodity-related or customer-related, (3) direct assignment or allocation to classes of the classified

functionalized costs using demand, commodity and customer allocators, and (4) calculation of class rates of return and relative rates of return under present rates. The [COSS] use[s] the minimum-size method to classify distribution mains in plant account 376 as consisting of both a customer-related component (54.93%) and a demand-related component (46.97%), with the customer component allocated to classes on number of customers and the demand component allocated to classes on demand.

OCA St. 3 at 6. The “minimum-size method” is premised on the assumption that “minimum-size distribution system can be built to serve the minimum loading requirements of the system’s customers,” meaning “that the number of customers on the distribution system causes at least a portion of the costs recorded” for distribution mains. *Id.* at 7-8.

Both the OCA and I&E disagree with Pike and OSBA that costs for distribution mains are customer-related. Rather, the OCA and I&E argued in testimony that costs for distribution mains are appropriately classified as demand-related. Costs are customer-related when they are incurred for the connection of an additional customer or are saved if a customer is removed from the system; for example, “services, meters, meter installations, and house and industrial regulators” are properly identified as customer-related. *Id.* at 10. On the other hand, costs are demand-related if they do not vary with the addition or subtraction of an additional customer and are related to meeting maximum system requirements during short intervals, meaning that they vary more with the demand placed on the system than the number of customers. *Id.* at 11. Distribution plant, including mains, which are upstream of a customer, do not incur costs in a way which varies directly with the number of customers downstream because they are meant to meet the collective peak demand of downstream customers irrespective of how many customers the portion of plant serves. *Id.*

While the Commission has previously held that the appropriate methodology for a COSS is dependent on the cost causation principles and design of the NGDC’s distribution system, there is no evidence to support the conclusion that the cost causation principles and design of Pike’s

distribution system, specifically, warrant the inclusion of a customer-related component for the cost of distribution mains. *PECO Gas 2020* at 229. This is especially true considering the Commission’s recent rejection of the inclusion of a customer component when allocating the costs of mains. *See Columbia 2020* at 215-18; *PGW 2023* at 137.

In *Columbia 2020*, the Commission stated, in pertinent part:

[W]e remain of the opinion that although mains serve customers, it is the throughput that determines the type of main investment because it is the load that determines the main investment, not the number of customers served. The existence of one customer, five customers, or ten customers does not determine the amount of mains investment. Mains investment is driven by the loads placed upon it, not by the number of customers served.

Id. at 217 (citing *Pa. PUC v. Nat’l Fuel Gas Dist. Corp.*, Docket No. R-00942991, 1994 Pa. PUC LEXIS 134, 83 Pa. P.U.C. 262 (Order Dec. 6, 1994) at 91-92).

In *PGW 2023*, the Commission stated, in pertinent part:

Indeed, Commission precedent, including the proceeding for the *2007 PGW Rate Case*, and the recent proceeding in *Columbia 2020*, weigh against the idea that mains costs include a customer component.

Id. at 137 (citing *Pa. PUC v. Phila. Gas Works*, Docket No. R-00061931, *et al* (Order entered September 28, 2007) at 80) (citing also *Columbia 2020* at 217).

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 distribution mains, the OCA requested Pike provide all documents relevant to such standards and procedures. OCA St. 3 at 8. After reviewing these documents, OCA witness Pavlovic determined “that the number of customers on PCLP distribution system plays no role in the design, planning, and operation of PCLP’s distribution system recorded in account 376,” the account which records the costs associated with distribution mains. *Id.* OSBA witness Ewen’s opinion that the documents do not show that “the demand for gas is the sole cause or driver of costs associated with distribution

mains,” is inapposite; rather, Mr. Ewen did not state that he concluded the documents suggest that the number of customers is a cause or driver of costs associated with distribution mains, meaning that his opinion does not conflict with that of Dr. Pavlovic. OSBA St. 1-R at 3.

Importantly, during the cost classification step, if a cost is either customer-related or demand-related, and a natural gas distribution system’s planning, design, and operation standards and procedures do not indicate that a particular cost is customer-related, then that cost is necessarily demand-related. OCA St. 3 at 11. Because Pike’s standards and procedures do not suggest that it incurs costs for distribution mains based on the number of customers connected to its system, then costs for distribution mains must be demand-related. As a result, not only does the Commission disfavor the use of a COSS methodology which classifies *any* portion of distribution mains cost as customer-related, but Pike’s distribution system, specifically, does not warrant a deviation from this long-standing position.

Furthermore, classification of distribution mains costs as customer-related is not supported by fundamental cost causation principles. The underlying assumption of the minimum-system COSS methodology is unsupported in the technical literature, including the National Association of Regulatory Utility Commissioners (NARUC) Gas Manual (Gas Manual). OCA St. 3 at 12. While the Gas Manual includes a thorough discussion on what costs are customer-related and what costs are demand-related, it fails to tie either discussion to its support of the minimum-size method. Rather, the “Gas Manual simply assumes without explanation or demonstration that the minimum-size method and the minimum-intercept method identify and quantify a portion of distribution costs that varies with or is caused by the number of customers.” *Id.* For example, if a customer connected to Pike’s distribution system with a peak usage of zero, Pike would not need to increase the size of its upstream distribution mains to accommodate the connection of that customer because

no additional distribution capacity is needed to serve that customer, given that the demand on the system did not increase. In this way, the addition of a hypothetical customer with a peak usage of zero caused Pike to incur no costs related to distribution mains, only the costs required to connect that customer to the distribution main (i.e., services, a meter, etc.). The theoretical underpinnings of the classification of distribution mains costs as customer-related which the OSBA supports are not borne out either by Pike's system itself or fundamental cost causation principles.

For these reasons, OCA witness Pavlovic recommended that the Commission reject Pike's classification of costs for distribution mains as customer-related and instead 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. I&E similarly recommended that the Commission reject the classification of distribution mains costs as customer-related. I&E St. 3 at 27-28. Instead, I&E recommended that distribution mains costs be allocated between the customer classes based on the peak and average methodology, which has been accepted by the Commission in prior proceedings. *Id.* (citing *Columbia 2020*). The Company provided a peak and average study in response to a discovery request from I&E, which I&E submitted as I&E Exhibit 3, Schedule 14. Under the peak and average method, the cost of distribution mains is allocated 50% based on each customer class's peak demand, or the maximum demand that each customer class may experience on a given day, and 50% based on each customer class's average demand, or the total demand of the customer class divided by the number of customers. I&E St. 3 at 28. Importantly, the peak and average method classifies no portion of distribution mains costs as customer-related. In sum, both the OCA and I&E agree that no portion of distribution mains costs should be classified as customer-related and that the OSBA's position should be rejected.

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 revenue allocation contained in the Settlement was informed by the modifications proposed by the OCA and I&E to Pike's COSS which are consistent with the Commission's precedent, supported by Pike's system design and operation, and are based in fundamental cost causation principles. Therefore, the OSBA's arguments in favor of a revenue allocation that is based on Pike's unmodified minimum-system COSS should be rejected, and the Commission should accept the revenue allocation proposed in the Settlement as 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 as to the removal of a customer component in allocating the cost of mains.

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

Importantly, after determining the appropriate COSS methodology, the Commission then determines inter-class rates, "which involves the assignment of the revenue requirement between the various customer classes." *PECO Gas 2020* at 247. 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. *PGW 2023* at 146; *PECO Gas 2020* at 247.

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 13-14. The goal of revenue allocation is to move each class’s relative rate of return closer to one. *Id.* at 14. Comparing the RROR for Pike’s customer classes with and without a customer component for the allocation of distribution mains costs demonstrates the effect of choosing an accurate and theoretically sound COSS methodology:

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 distribution mains 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 Space Heating	0.79	1.03	0.84	0.92
SC1 Residential Domestic	0.15	1.15	0.15	0.57
SC1 Residential Other	0.88	1.02	0.92	0.96
SC2 General Service Commercial	4.63	0.82	2.86	1.93
SC2 Commercial Space Heating	2.00	0.83	1.44	1.22
Total	1.00	1.00	1.00	1.00

OCA Exh. KRP-2. By eliminating the customer component from the classification of distribution mains costs, the OCA’s proposed revenue allocation would more accurately move Pike’s customer classes towards their cost of service. More significant movements, such as that proposed by Pike, would increase the residential class’s cost burden and would violate the principle of designing rates in accordance with cost of service. *Lloyd*, 904 A.2d at 1020.

The below table summarizes the revenue allocation positions of the parties to the proceeding, as well as the ultimate Settlement revenue allocation:

Comparison of Class Percent Distribution of Revenue Requirement Increase					
Customer Class	Pike^[1]	OSBA^[2]	I&E^[3]	OCA^[4]	Settlement^[5]
SC1 Residential Space Heating	91.26%	84.80%	83.59%	76.50%	79.45%
SC1 Residential Domestic	2.64%	3.37%	3.72%	2.00%	2.43%
SC1 Residential Other	0.38%	0.35%	0.34%	0.30%	0.33%
SC2 General Service Commercial	2.47%	4.13%	2.89%	9.10%	7.63%
SC2 Commercial Space Heating	3.25%	7.35%	9.46%	12.00%	10.16%
Total	100.00%	100.00%	100.00%	100.00%	100.00%
^[1] Pike Exh. G-8 at 1-2 ^[2] OCA St. 3R at 6 ^[3] I&E St. 3 at 32 ^[4] OCA St. 3 at 19 ^[5] Petition at App'x C					

The Settlement revenue allocation is more in line with a COSS which includes no customer component in the classification of the cost of distribution mains and more accurately reflects cost causation among Pike's rate classes than the minimum-size method study supplied by Pike in its initial filing or OSBA's proposed revenue allocation.

By contrast, the OSBA's approach violates the principle of cost causation by relying on Pike's minimum-system method COSS without modification as well as the principle of gradualism by proposing significant increases without concern for rate shock. As described by OCA witness Pavlovic:

OSBA's proposed revenue allocation takes as a guide [Pike's] minimum-size [COSS], which is not consistent with cost causation and thereby over allocates costs to the SC1 classes and under allocates costs to the SC2 classes. Thus, as I noted in my direct testimony regarding [Pike's] revenue allocation, under OSBA's revenue

allocation the SC1 classes that underearned will now over earn and the SC2 classes that over earned will now underearn.

OCA St. 3R at 8 (internal citations omitted). Because the Commission has consistently rejected the inclusion of a customer component in the allocation of the cost of distribution mains, and no evidence was supplied in the record to demonstrate that Pike's system accommodation by the Commission's long-standing policy, the OSBA's revenue allocation proposal should be rejected as out of line with Commission precedent. *See Columbia 2020* at 230; *PECO Gas 2020* at 247 (both determining to allocate the authorized revenue increase in accordance with the selected COSS methodology). The Settlement revenue allocation more accurately reflects a COSS methodology which could be adopted by the Commission in litigation than the revenue allocation proposed by the OSBA.

Further, 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 231. Generally speaking, the Commission has previously limited "the maximum average rate increase for any particular class to 1.5 to 2.0 times the system average increase." *PECO Gas 2020* at 249. The OSBA's proposal provides an increase of 1.8 times the system average increase to SC1 Residential Domestic customers. OCA St. 3R at 7. Pike class SC1 Residential customers, overall, would receive a rate increase in excess of 100% over present rates under the OSBA's proposal. *Id.* This is, in the words of Dr. Pavlovic, a "truly massive revenue increase[]," which is unmitigated by gradualism constraints and would likely result in rate shock to Pike's residential customers. *Id.* at 9.

The OCA's proposed revenue allocation was designed to move classes towards their cost of service by approximately 50% of the gap between the class's RROR at present rates and an

RROR of 1.00, combining the Commission's aims for revenue allocation of movement towards cost-of-service rates with gradual changes in rates over time. OCA St. 3R at 7. The Settlement revenue allocation, by providing all customer classes with the system average increase, stabilizes the amount customers are currently contributing towards their cost of service. Petition at App'x C. Furthermore, because Pike anticipates adding approximately 46 new residential customers during the FTY and approximately two 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. G-6 at 20. As a result, the revenue allocation provided in the Settlement achieves an appropriate balance between the revenue allocation positions of the OCA, Pike, and I&E without moving classes further away from their cost of service, as informed by the COSS recommendations of the OCA and I&E, and considering gradualism.

The OSBA's opposition to the Settlement revenue allocation is not supported by Commission precedent, fundamental principles of cost causation, 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 in the public interest and resulting in just and reasonable rates.

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 \$8.00 to \$8.75. Settlement at ¶¶ 8-9. Pike initially proposed a residential customer charge of \$9.50, an 18.8% increase 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 delivery 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. The Settlement represents a reasonable compromise on the residential customer charge at the midpoint between the current and proposed customer charges. Increasing the residential customer charge by 9.4% while increasing the overall revenue from the residential customer class by 79.5% 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 80 CCF, the customer charge represents approximately 5.9% of a customer's bill at present rates inclusive of purchased gas cost; under the Settlement rates, the customer charge will represent approximately 4.8% of a customer's bill inclusive of purchased gas cost.¹⁰ Pike Exh. G-8 at 3, 5. By placing more of a residential customer's rates in the volumetric portion of the customer's bill, residential customers 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 22. As a result, the rate design for residential customers is a significant 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

¹⁰ Exclusive of the cost of purchased gas, the customer charge for a residential customer using 80 CCF per month currently represents approximately 12.1% of the delivery portion of their bill, would represent 7.5% of the delivery portion of their bill at the Company's proposed rates in its filing, and will represent 9.5% of the delivery portion of their bill during the first year of new effective rates and 7.9% of the delivery portion of their bill beginning with the second year of new effective rates. Settlement at ¶ 8.

no evidence regarding residential rate design and the Commission should accept the Settlement residential rate design without modification.

D. Bill impacts from the revenue requirement increase authorized in the Settlement are mitigated by the two-year phase-in of rates.

Under the Settlement revenue requirement increase of \$825,000, of which \$678,226 is allocated to the residential classes, a residential customer using 80 CCF will see the delivery portion of their bills increase by \$45.35, or 68.8%, from \$65.94 to \$111.29.¹¹ Settlement at ¶¶ 8-9. This is a significant increase for customers to see all at once. In order to mitigate the Settling Parties' concerns that such a significant increase may induce rate shock, the Settlement will phase in the total rate increase over two years. In the first year of new effective rates, customers will see 60% of the overall rate increase, or \$495,000 per year in additional distribution revenues, with the remaining 40%, or \$330,000 per year in additional distribution revenues, going into effect during the second year of new effective rates. Settlement at ¶ 4. I&E recommended a similar proposal in the direct testimony of its witness Ethan Cline. I&E St. 3 at 34. As a result, a residential customer using 80 CCF will see a rate increase of approximately \$25.91, or 39.3% of the delivery portion of their bill, during the first year of new effective rates, instead of the full \$45.35 increase.

By spreading the rate increase out over two years, customers will have the opportunity to revise their budgeting and adjust to the increased level of gas distribution rates before the full rate increase goes into effect, mitigating some of the effects of rate shock inherent in such a significant rate increase. The OSBA did not make a similar proposal. If the Commission determines that the OSBA's position should be adopted, it should only be adopted pursuant to a two-year phase-in of the authorized rate increase.

¹¹ Inclusive of the cost of purchased gas, a residential customer using 80 CCF would see their monthly bill increase from \$127.00 to \$172.35, or 35.7%. Settlement at ¶ 9.

E. The Settlement revenue allocation and rate design result in just and reasonable rates.

The revenue allocation and rate design provided-for in the Settlement are informed by the OCA's and I&E's positions that the COSS relied upon for the purposes of revenue allocation and rate design should not include a customer component in allocating the cost of distribution mains. OSBA supports the Company's COSS which includes a customer component and, therefore, the OSBA's position is contrary to Commission precedent, the design and operation of Pike's distribution system, and fundamental principles of cost causation. *See* OCA St. 3R at 3-9; OCA St. 3SR at 2-11; *see also Columbia 2020* at 215-18; *PGW 2023* at 137. As a result, the OSBA's position should be rejected by the Commission because the inclusion of a customer component in the allocation of the costs of distribution mains does not result in just and reasonable rates. The revenue allocation and rate design included in the Settlement, by contrast, should be adopted as in the public interest and resulting in just and reasonable rates because it represents a reasonable compromise and is within the range of results which would have resulted from litigation as supported by the expert testimony presented by the Settling Parties.

X. ALTERNATIVE RATEMAKING

Pike proposed a Weather Normalization Adjustment (WNA) which would apply to the Company's residential customers on an as-billed basis through the billing months of October through May. Pike St. 2 at 10-16. The proposed WNA would adjust residential customers' monthly bill for the quantity of gas which the Company projected they would use based on predicted "normal" weather for that month. *Id.* During the months in which the WNA would be in effect, the Company would charge a customer's bill if weather is warmer than "normal" and credit the customer's bill if weather is colder than "normal." OCA St. 3 at 24. Pike's proposed WNA would function differently from other WNAs which have been implemented pursuant to settlement

agreements by other natural gas distribution companies (NGDCs) in Pennsylvania, as summarized by OCA witness Pavlovic:

[Pike] proposes to include a “Heat Sensitivity Factor” which represents the difference between actual sales and the cumulative, non-weather sensitive usage PCLP calculates for its customer base. No other WNA in Pennsylvania includes this “factor”. Non-weather sensitive usage will be determined on a per-class basis, not on an individual per-customer basis, unlike in other WNAs in Pennsylvania. Further, [Pike] does not propose to include a deadband to controls for minor variations in weather. A deadband is a fixed percentage (or collar) around the forecasted number of normal heating degree days (HDDs) in which no WNA charges or credits will be issued and has been implemented as part of every authorized WNA in Pennsylvania.

Id. at 27.

The OCA presented significant testimony recommending that the Company’s proposed WNA mechanism be rejected. *Id.* at 23-30. Specifically, the OCA opposes the proposed WNA because the proposed WNA will serve neither of the policy objectives Pike advanced as the basis for implementing a WNA – reducing the volatility of customers’ bills and better managing Pike’s cash during warm periods – would operate only to harm customers subject to the WNA, and fails to satisfy the Commission’s policy statement on alternative ratemaking mechanisms found at 52 Pa. Code Sections 69.3301 and 69.3302. *Id.* at 24-25; OCA Exh. KRP-4. OCA witness Pavlovic testified that the proposed WNA increases bill volatility by obscuring “the delivery charge price signal that incentivizes conservation and control over monthly bills irrespective of whether the individual customer’s month to month consumption volatility matches that of the class as a whole.” OCA St. 3 at 25. Further, Dr. Pavlovic asserted that the proposed WNA would not improve Pike’s cash flow during periods of normal weather because any improved cash flow during periods of warmer-than-normal weather is balanced out by credits provided to affected customers during periods of colder-than-normal weather, and Pike’s cash flow should already be smoothed during periods of weather volatility by its lines of credit. *Id.*

The proposed WNA, similar to the other WNAs which have been implemented by NGDCs in Pennsylvania pursuant to settlement agreements, would also operate to decrease customers' incentive to implement energy efficiency measures, dilute price signals regarding customers' actual usage, adjust customers' usage in a way that is separate from customers' cost causation, disproportionately affect low-income customers by increasing their bills during periods where they should experience bill savings from decreased usage, and is not understandable to customers. OCA Exh. KRP-4; *see also* Tr. 56-57, 132-34 (public input hearing testimony demonstrating that customers on strict budgets would struggle to afford WNA charges on top of their anticipated monthly natural gas bill). For these reasons, the proposed WNA fails to satisfy the Commission's policy statement on alternative ratemaking mechanisms. 52 Pa. Code §§ 69.3301-02.

I&E witness Cline also recommended that the proposed WNA should be rejected. I&E St. 3 at 3-13. OSBA did not submit testimony addressing the WNA.

Pike disagreed with the testimony submitted by OCA and I&E recommending that the proposed WNA be denied. Pike St. 2-R at 31-38. However, in the interests of compromise, the Settling Parties agreed that Pike would withdraw its request to implement a WNA in this proceeding, a term which is significantly in the public interest due to the harm which approval of a WNA could impose on affected customers. Therefore, the Settlement term regarding the withdrawal of the WNA is in the public interest and the Settlement should be accepted without modification.

XI. 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

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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 19 pages of testimony, Appendix A, and Schedules JLR-1 through JLR-16 along with a signed verification of Jennifer L. Rogers.
- OCA Statement 2: Direct Testimony of Maureen L. Reno consisting of 55 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 30 pages of testimony and Exhibits KRP-1 through KRP-4 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 and Exhibit KRP-1R along with a signed verification of Karl R. Pavlovic.

SURREBUTTAL TESTIMONY

- OCA Statement 3SR: Surrebuttal Testimony of Karl R. Pavlovic consisting of 14 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.