



COMMONWEALTH OF PENNSYLVANIA

June 23, 2025

E-FILED

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

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

Dear Secretary Homsher:

Enclosed please find the Brief in Opposition to the Joint Petition for Non-Unanimous Full Settlement of Electric Base Rate Proceedings, filed on June 9, 2025, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-referenced proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Rebecca Lyttle

Rebecca Lyttle
Assistant Small Business Advocate
Attorney ID No. 201399

Enclosures

cc: Mark D. Ewen
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**BRIEF IN OPPOSITION TO THE JOINT PETITION
FOR NON-UNANIMOUS FULL SETTLEMENT OF
ELECTRIC BASE RATE PROCEEDINGS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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**For:
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Date: June 23, 2025

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I. INTRODUCTION

A. Description of the Office of Small Business Advocate

The Pennsylvania Office of Small Business Advocate (“OSBA”) is an independent office created by the General Assembly pursuant to the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41–399.50. OSBA represents the interests of small business customers in utility proceedings before the Pennsylvania Public Utility Commission (“Commission”) and other state and federal agencies. In proceedings such as the present one, OSBA is charged with ensuring that the rates, terms, and conditions of service proposed by public utilities are fair and reasonable for small commercial consumers.

B. Procedural History

On March 29, 2024, Pike County Light & Power Company – Electric Division (“Pike” or the “Company”) filed Supplement No. 92 to Tariff Electric – Pa. P.U.C. No. 8 with the Pennsylvania Public Utility Commission, seeking a general increase in base rates totaling approximately \$1.87 million in annual revenues. The Office of Small Business Advocate filed a Notice of Appearance, Complaint, and Public Statement on April 5, 2024. Extensive discovery and formal evidentiary hearings followed, including the submission of direct, rebuttal, and surrebuttal testimony from multiple parties. On May 24, 2024, the Company, the Office of Consumer Advocate (“OCA”), and the Commission's Bureau of Investigation and Enforcement submitted a Joint Petition for Non-Unanimous Full Settlement. OSBA opposed and was not a party to the Settlement.

C. Legal Standards

1. Utility Monopoly Regulation

Public utilities in Pennsylvania are granted monopoly status over defined service territories. With this privilege comes the obligation to serve all customers within that territory under rates, terms, and conditions that are just, reasonable, and non-discriminatory, pursuant to 66 Pa. C.S. § 1301. The Public Utility Code imposes oversight responsibilities on the Commission to ensure that monopoly utilities do not abuse their position by imposing disproportionate or unsupported costs on specific customer classes, such as small commercial users. This principle of balance is especially critical when evaluating large rate increases affecting vulnerable customer segments.

2. Burden of Proof for Non-Unanimous Settlements

A public utility has the burden of proving that its proposed rates are just, reasonable, and nondiscriminatory. 66 Pa. C.S. § 315(a). Rates must be supported by substantial evidence and may not be based on speculation, convenience, or unexplained allocations.

3. Just and Reasonable and Not Unduly Discriminatory Rates

66 Pa. C.S. § 1301 requires all utility rates to be just and reasonable. 66 Pa. C.S. § 1304 prohibits discriminatory or preferential treatment between classes.

4. Reasonable Opportunity to Earn a Fair Rate of Return

Utilities are constitutionally entitled to the opportunity—but not the guarantee—to earn a fair rate of return on their investment. However, this right does not extend to earning such returns at the expense of ratepayers through arbitrary or excessive rate increases. The return must be earned through prudent management and cost-based pricing that reflects the actual use and burden imposed by each customer class. A revenue increase that disproportionately impacts small commercial users—who already pay more than their cost of service—violates this principle.

5. Due Consideration to the Interest of Consumers

The Commission is charged with ensuring that all rates and policies are in the public interest and consider the impact on consumers, particularly vulnerable classes such as small businesses. See 66 Pa. C.S. § 1501. In reviewing non-unanimous settlements, the Commission must determine whether the proposed rates promote fairness and nondiscrimination and are supported by evidence. Disregarding the economic impact of large delivery rate increases on small commercial customers fails to meet this mandate.

II. STATEMENT OF THE CASE

Pike's rate filing proposed a significant increase in electric base distribution revenues, affecting all customer classes. The revenue requirement has been reduced from \$2,143,900 requested in Pike's filing (including DSIC revenues) to \$1,590,000 in the proposed settlement. Despite the revenue reduction, Small Commercial Secondary (SC2-S) and Primary (SC2-P) customers receive rate increase that are not consistent with cost causation. While residential

customers (SC1) were proposed to receive rate increases above the system average under the Company's original proposal, they now receive a rate increase *below* the system average under the proposed settlement. This change is unfair to commercial customers who are already over-recovering costs at current rates. SC2-2 commercial customers receive a rate increase of 21.9 percent under the proposed settlement, which is above the system average increase. OSBA opposes the proposed settlement because it perpetuates and intensifies revenue responsibility inequities, fails to mitigate rate shock for commercial customers, and contradicts core principles of cost-based ratemaking. The black-box nature of the settlement, absence of updated cost-of-service data, and lack of consideration for economic impacts on small businesses render the settlement unjust and unreasonable.

III. SUMMARY OF ARGUMENT

The proposed settlement submitted by Pike County Light & Power Company is not reasonable, just, or supported by the evidentiary record as it pertains to small commercial customers. Pike did not stand by its own cost-of-service study (COSS) results when it accepted the revenue allocation contained in the proposed settlement. While residential customers receive relatively modest rate increases—despite still being under-recovered according to the Company's own cost of service study (see Pike Electric Filing, Exhibit E-6, Schedule PMN-2-E and OSBA St. No. 1) small commercial classes such as SC2-S and SC2-P are burdened with disproportionately large increases exceeding 20%. These increases are not supported by updated cost data and violate core ratemaking principles such as gradualism, fairness, and cost causation.

The settlement is the result of a black-box compromise that lacks transparency and fails to align rates with the Company's own cost of service results. No revised cost of service study or

technical support was provided to justify this deviation, rendering the settlement unsupported by substantial evidence.

Further, the failure to consider economic hardship to small businesses render the settlement inconsistent with Commission precedent and Pennsylvania's policy priorities, including the Governor's economic strategy supporting small business growth.

As explained by OSBA witness Mark Ewen, small commercial customers are already paying above cost of service and were again targeted for disproportionate increases. Rates must be supported by demonstrable cost justification, not political expediency.

The Commission has a duty to reject settlements that are not in the public interest, especially where one class of customers is unfairly and excessively burdened. Upholding this settlement would set a harmful precedent that disincentivizes cost-based ratemaking and invites inequitable treatment in future rate cases.

IV. ARGUMENT

A. Small Businesses Are Disproportionately Impacted by the Settlement

The Settlement imposes excessive rate increases on small commercial classes SC2-S and SC2-P—21.9% and 20.6% respectively, as confirmed on page 4 and in Appendix C of the Joint Petition. These small businesses are already contributing revenue above their cost of service, and the settlement provides no justification for maintaining or increasing this imbalance. This approach directly contradicts cost causation principles and violates the statutory requirement that rates not be unduly discriminatory.

B. Small Businesses Subsidize Residential

The OSBA agreed with Pike's COSS methodology, (see OSBA St. No 1, pp. 3-9 and OSBA St. No. 1-R, pp. 1-3). In direct testimony, OSBA witness Mark Ewen noted that Pike's revenue allocation proposal was directionally consistent with its cost allocation methodology. Notably, Pike defended its COSS methodology in rebuttal testimony (see PCLP Statement No. 1-R, pp. 8-9). It is not reasonable for the Company to accept a revenue allocation proposal that is contrary to its entire cost and revenue allocation methodology which has guided the Company's revenue allocation and rate design in previous base rates proceedings.

The Company's COSS demonstrates that SC2-S and SC2-P customers have a current revenue-to-cost ratio of 1.24, clearly indicating they are already paying significantly more than the cost to serve them. At the same time, the revenue-to-cost ratio for the SC1 Residential class is 0.84, indicating under-earning. The index rate of return metric shows the same divergence: the SC2-S and SC2-P classes have index rates of return of 1.58 and 1.57, respectively, compared to the SC1 Class's index rate of return of 0.63 (see Pike Electric Filing, Exhibit E-6, Schedule PMN-2-E). Commercial customers' over-recovery invalidates any justification for the SC2-S class to receive a higher rate increase than the SC1 class.

C. The Settlement Contradicts Principles of Gradualism

Small commercial customers receive no phase-in or rate mitigation, despite being assigned the largest percentage increases. This contradicts the Commission's expectation that significant rate impacts be moderated over time to avoid rate shock. The absence of mitigation

for these customers is especially egregious considering the modest increase assigned to residential customers who are still under-recovering based on cost of service.

D. The Settlement Ignores Economic Realities Facing Small Businesses

The record is devoid of any analysis of how these rate increases will impact Pike County’s small businesses, many of which are struggling with inflation and post-pandemic economic recovery. The Governor’s 2023 Economic Development Strategy prioritizes small business resilience and explicitly warns against cost burdens that may hinder local commerce.

E. Settlement Conflicts with Pennsylvania’s Small Business and Utility Policy Goals

By disproportionately increasing electric delivery rates on small businesses—without adequate justification, mitigation, or consideration of statewide economic priorities—the proposed settlement undermines a small business growth. Approval of this settlement would place Pike County’s small commercial employers at a structural disadvantage and contradict the Commonwealth’s broader efforts to support resilient, thriving local economies. It would also contradict these statewide priorities and place small employers at greater financial risk.

F. Rate Base

The OSBA has no opinion concerning the rate base.

G. Revenues

The OSBA has no opinion concerning the revenues.

H. Expenses

The OSBA has no opinion concerning the expenses.

I. Taxes

The OSBA has no opinion concerning the taxes.

J. Rate of Return

The OSBA has no opinion concerning the rate of return.

K. Rate Structure And Rate Design

1. Cost of Service Methodology and Revenue Allocation

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. OSBA witness Mark Ewen identified that Pike's use of a 110% constraint in allocation unjustly preserved over-recovery from commercial customers. (OSBA St. No. 1 at 6–8.)

2. Revenue Allocation in the Settlement

The revenue allocation included in the Settlement continues to disproportionately burden SC2-S and SC2-P commercial customers. Despite being above cost of service, their delivery rate increase exceeds 20%. Meanwhile, residential customers—who remain below cost of service—are subject to only a 21.4% increase. (See Joint Petition at Appendix C.)

3. Rate Design in the Settlement

The Settlement's rate design results in large delivery rate increases for small businesses without any phase-in or mitigation, violating principles of gradualism and fairness. This further contradicts Pa. PUC precedent.

L. Settlement Rate Design Results Are Not Just and Reasonable

The disproportionate rate impact on commercial customers, unsupported by cost justification, is inconsistent with statutory standards and longstanding Commission precedent.

V. CONCLUSION

The proposed rate increase and its allocation are unjust and unreasonable as applied to small businesses. The lack of a cost-based phase-in, the continued over-recovery from commercial classes, and the unjustified disparity in treatment violate fundamental ratemaking principles. The Commission has long affirmed that rates must reflect cost causation and avoid arbitrary or political allocation of burdens. Upholding the current settlement risks signaling that regulatory expedience may trump equity and cost-of-service accuracy. That is a dangerous precedent with statewide implications.

For these reasons, OSBA respectfully requests that the Commission reject the proposed settlement and instead adopt a revenue allocation and rate design that reflects the testimony of OSBA witness Mark Ewen and aligns with cost-of-service principles.

Respectfully submitted,

/s/ Rebecca Lyttle

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| Pennsylvania Public Utility Commission | : | Docket Nos. R-2024-3052359 |
| | : | C-2025-3053075 |
| v. | : | |
| | : | |
| Pike County Light & Power Company | : | |
| (Electric) | : | |

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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